

LAYING A FOUNDATION FOR THE FUTURE OF MONTANA'S JUDICIARY: A STUDY OF COURT FINANCE AND ADMINISTRATION

November 1994

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A Report to the 54th Legislature

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**LAYING A FOUNDATION FOR
THE FUTURE OF MONTANA'S JUDICIARY:
A STUDY OF COURT FINANCE AND ADMINISTRATION**

A Report to the 54th Legislature

From the

Judicial Unification and Finance Commission

Prepared by

Sheri S. Heffelfinger, Staff Researcher

November 1994

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Montana Legislative Council
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CHAPTER NO. 632

[HB 525]

AN ACT ESTABLISHING THE JUDICIAL UNIFICATION AND FINANCE COMMISSION; PROVIDING FOR APPOINTMENTS TO THE COMMISSION; DIRECTING THE COMMISSION TO CONDUCT A STUDY OF THE FINANCING AND ORGANIZATION OF THE MONTANA JUDICIARY; APPROPRIATING FUNDS FOR OPERATION OF THE COMMISSION; PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE; AND PROVIDING FOR CONTINGENT VOIDNESS.

Be it enacted by the Legislature of the State of Montana:

Section 1. **Judicial unification and finance commission — composition — vacancies.** (1) There is a judicial unification and finance commission.

(2) The commission is composed of the following 13 members:

(a) three members, to be appointed by the governor, who must be from the public at large;

(b) two members, to be appointed by the chief justice of the Montana supreme court;

(c) one member, to be appointed by the speaker of the house of representatives, who must be a member of the house of representatives;

(d) one member, to be appointed by the president of the senate, who must be a member of the senate; and

(e) six members, one each of whom must be appointed by the following:

(i) the Montana judges' association;

(ii) the Montana magistrates' association;

(iii) the Montana association of clerks of court;

(iv) the state bar of Montana;

(v) the Montana league of cities and towns; and

(vi) the Montana association of counties.

(3) The members of the commission shall elect a presiding officer from among the members.

(4) Any vacancy occurring on the commission must be filled in the same manner as the original appointment.

Section 2. **Meetings.** (1) The presiding officer shall schedule meetings of the commission as considered necessary and shall give notice of the time and place of each meeting to the members of the commission.

(2) The commission may adopt rules of procedure for the conduct of its meetings.

Section 3. Reimbursement of expenses — compensation. (1) Each member of the commission, except the legislative members appointed under [section 1(2)(c) and (2)(d)], is entitled to reimbursement for expenses as provided in 2-18-501 through 2-18-503.

(2) A legislative member appointed under [section 1(2)(c) or (2)(d)] is entitled to compensation and expenses as provided in 5-2-302.

Section 4. Powers and duties — staff support — recommendations — report. (1) The commission shall make a detailed and thorough study of the Montana judiciary, including:

- (a) possible unification of the Montana judiciary;
- (b) current and future funding of the Montana judiciary;
- (c) matters pertaining to the standards and selection of judges; and
- (d) other matters relating to the efficient operation of the Montana judiciary.

(2) The legislative council shall provide staff support to the commission.

(3) The commission is authorized to secure directly from any agency, board, or commission or from any independent organization any information, suggestion, estimate, or statistic. Any agency, board, commission, or organization requested by the commission to provide information shall furnish the information.

(4) On or before December 1, 1994, the commission shall submit to the legislature a written report of its findings, conclusions, and recommendations and options for further consideration. If legislation is recommended, the report must include a draft of the legislation.

Section 5. Authority to accept contributions — appropriation — restriction on expenditures. (1) The legislative council may accept, on behalf of the commission, gifts, grants, or donations that may not, in total, exceed \$33,000.

(2) Any money received from gifts, grants, or donations must be deposited in an account in the state special revenue fund to the credit of the legislative council for use by the commission. Money in the account may be used only for fulfilling the duties of the commission, including:

- (a) reimbursing or compensating the members as provided in [section 3];
- (b) contracting for services to execute the study to be conducted by the commission; or
- (c) paying other expenses as may be incurred by the commission or the legislative council in conducting the study of the Montana judiciary.

(3) (a) There is appropriated to the legislative council for the purposes of conducting the study described in [section 4] \$33,000 from the state special revenue fund account described in subsection (2).

(b) There is allocated to the legislative council from the district court criminal reimbursement program, funded in 3-5-901, up to \$25,000 for the purpose of conducting the study described in [section 4]. Any amount received pursuant to subsection (1) in excess of \$8,000 decreases the allocation under this subsection (b) by a corresponding amount. The allocation must be from funds available before the supreme court administrator has paid expenses specified in 3-5-901. For the purposes of 3-5-901(2), the study described in [section 4] is a cost of administering certain district court expenses described in 3-5-901.

(4) The appropriations and allocation under subsection (3) are biennial.

(5) As required under 17-2-108, the legislative council shall expend special revenue allocated in subsection (3)(a) of this section before expending any amount allocated in subsection (3)(b) or contingently appropriated in [section 6]. If any funds appropriated or allocated for the study remain unexpended on June 30, 1995, the funds must be credited to the district court criminal reimbursement program funded under 3-5-901.

Section 6. Coordination instruction. If House Bill No. 278 is not passed and approved in a form that includes a statutory appropriation of funds received under 61-3-509, then the following language is included in House Bill No. 2, within the appropriation to the judiciary:

“If House Bill No. 525 is passed and approved, then \$33,000 of the appropriation to the district court criminal reimbursement program (program 7) must be allocated to the legislative council for the purpose of conducting the study of judicial unification and finance.”

Section 7. Contingent voidness. If House Bill No. 278 is not passed and approved in a form that includes a statutory appropriation of funds received under 61-3-509 and the appropriation in House Bill No. 2 to the judiciary for the district court criminal reimbursement program (program 7) is less than \$33,000, then [this act] is void.

Section 8. Effective date. [This act] is effective July 1, 1993.

Section 9. Termination. [This act] terminates June 30, 1995.

Approved May 11, 1993.

EXECUTIVE SUMMARY OF RECOMMENDATIONS

[C]ourts are agencies of the government, and fundamental court reform can be achieved only by political action. Our . . . courts will never be structured and reinforced to sustain the burdens of the law explosion until it is brought home to the public at large that justice is everybody's business.¹

-- Harry W. Jones, 1965

Overview

The 53rd Legislature established by statute the Judicial Unification and Finance Commission (JUFC) to examine court unification, court finance, judicial selection, and other matters related to the efficient operation of the Montana Judiciary. (See Ch. 632, L. 1993.)

After eight meetings, testimony from key interested persons; a problem identification survey of County Commissioners, District Court Judges, Magistrates, and Clerks of District Courts; a panel discussion with national and state experts; a public hearing; and its own deliberations, the JUFC developed 13 recommendations, including 7 bills. (See Appendix A.)

Chapter 1 explains why and how the study was conducted; Chapters 2 through 5 provide background information relevant to the study; and Chapters 6 through 9 further detail each recommendation and present the key issues, objectives, testimony, research, and relevant JUFC discussion and action. Other issues are discussed in Chapter 10.

Overall Intent of Recommendations

While the JUFC stopped short of recommending a unified and state-funded court system, the JUFC's key recommendations are designed to address an immediate fiscal crisis facing some counties struggling to fund their District

Courts, to improve judicial administration and information management, and to provide a framework for a long-range planning process within the Judiciary.

Court Funding Recommendations

Recommendation #1: Establish a Cost-Sharing Program in Civil Cases

To address immediate and serious District Court funding shortfalls in several counties, the Legislature should adopt LC 67 to establish a 50/50 cost-sharing program so that the state pays up to 50% of each county's most volatile or uncontrollable court expenses in civil cases: indigent representation, juvenile probation, and court reporter salaries. The program should be funded from a 0.1 % light vehicle tax imposed statewide, with a corresponding reduction in the local option light vehicle tax from 0.5 % to 0.4 %. In conjunction, the June 30, 1995, sunset on the disposition of the local option tax (i.e., 50% to the county and 50% to the county and its cities, apportioned by population) should be repealed and counties should use the revenue first to fund District Court needs. The mandatory 0.1 % light vehicle tax is expected to raise \$2.6 million based on fiscal year 1995 projections.

Recommendation #2: Explore Long-Term Solutions

To avoid future funding shortfalls and to address the inequities inherent in a property tax-based funding system, the Legislature should continue to explore ways to ensure that Montana's District Courts are stably, equitably, and sufficiently funded. State assumption of District Court funding should be explored by the Legislature in the context of comprehensive tax reform and by the Judicial Branch as part of the long-range strategic planning process proposed under Recommendation #6.

Recommendation #3: State Funding for Psychiatric Expenses

The Legislature should adopt LC 130 to fund from the general fund the hospitalization, evaluation, and care of the seriously mentally ill during District Court involuntary civil commitment proceedings. Psychiatric evaluation and treatment costs incurred by counties as a result of District Court cases transcend county boundaries because of the indigent nature of the mentally ill population and place a significant and unequitable financial burden on counties. The Legislature should also thoroughly review and revise Title 53, chapter 21, MCA, to address procedural inequities in assigning responsibility for the mentally ill.

Recommendation #4: Reimburse Postconviction Relief Expenses

The Legislature should adopt LC 66 so that court expenses incurred in postconviction relief proceedings are reimbursable by the state under the current District Court Criminal Reimbursement Program. (Postconviction relief expenses result from a challenge to the validity of a sentence or conviction in a criminal case.) Additional funding is not required. However, the current statute providing reimbursement to counties for criminal case expenses does not address postconviction relief proceedings.

Recommendation #5: Pursue Grant Funding

The Judicial Branch as a whole and each court and county individually should actively seek funds being made available for state court operations through the federal crime control bill and other grant programs. These funds are being provided for court programs in several areas, such as juvenile justice, court automation, and judicial education.

Court Administration Recommendations

Recommendation #6: Establish a Judicial Advisory Council

The Montana Supreme Court should establish a judicial advisory council to conduct long-range strategic planning for the Judicial Branch. The judicial advisory council should explore Judicial Branch issues related to state court administration, operation, and finance and should advise the Supreme Court as well as the Legislature on immediate and long-term judicial issues. Issues relevant to the JUFC study that should be further explored by the judicial advisory council include state funding, court consolidation, court reporter employment status,* and judicial compensation.** The Supreme Court should also provide for periodic regional conferences to improve communication among judicial and court officials and between court levels. These regional conferences, presided over by a Supreme Court Justice for each region, should assist the Judiciary in addressing common operational and administrative problems and establish a framework for resolving these issues at a regional or statewide level.

Recommendation #7: Retain Seven-Member Supreme Court

Montana should retain a seven-member Supreme Court. The Legislature should adopt LC 62 to repeal the sunset of the current version of section 3-2-101, MCA, thereby continuing the authorization for six associate justices. If the sunset is not repealed, Supreme Court membership will be reduced from seven to five members on January 6, 1997. This will increase the caseload on the remaining Justices by 40%. (The Governor's Task Force to Renew Government also recommends retention of a seven-member Supreme Court.)

* Court reporter salaries, transcript fees received in addition to salaries, and whether court reporters are subject to overtime provisions of the Fair Labor Standards Act of 1938 are issues that should continue to be monitored.

** According to the National Center for State Courts' survey of judicial salaries (NCSC Newsletter, Vol. 20, No. 2, July 1994), the salary for Montana's District Court Judges ranks 49th in the nation, while the salary for Supreme Court Justices continues to rank dead last.

Recommendation #8: District Judges Assigned by Chief Justice

The Legislature should adopt LC 63 to amend sections 3-5-111 and 3-5-112, MCA, to provide that the Chief Justice, rather than the Governor, may temporarily assign District Court Judges to other districts if necessary to manage caseloads. Although current statutory language states that the Governor is to make these assignments, the Montana Constitution vests the Supreme Court with general supervisory authority over all other Montana courts. The revision proposed in LC 63 remedies the situation.

Court Information and Technology Recommendations

Recommendation #9: User Surcharge for Court Automation

To fund a statewide court information technology program, the Legislature should adopt LC 65 to impose a \$5 user surcharge on all filings in civil cases and upon conviction or forfeiture of bond or bail in criminal cases. The surcharge should apply in all courts of original jurisdiction and should be imposed in addition to existing fees. Temporary funding for court automation programs (which assist courts in day-to-day operations, help standardize information management, and offer basic services to court users) terminates July 1, 1995. The proposed \$5 surcharge is expected to raise about \$1.1 million annually.

Recommendation #10: District Court Records Preservation Fund

The Legislature should adopt LC 64 to require that counties establish a District Court records, retention, preservation, and technology fund to raise certain District Court fees and to provide that \$5 from most of the raised fees be deposited into the newly established fund. District Court Clerks are being faced with immediate problems related to a shortage of storage space, not enough filing cabinets, and the limited availability of microfilming.

Recommendation #11: Utilize Available Technology

The Legislature, Supreme Court, and Judiciary should support the use of available technology, especially the Montana Educational Telecommunications Network (METNET), to improve court operations. The METNET system, which provides a two-way interactive televideo capability, should be made available in as many courthouses as possible so that initial hearings can be conducted without the cost and security risks of transporting a defendant from the jail or detention center to the court. The JUFC endorses the efforts of the Montana Association of Counties and of the Youth Justice Council to provide METNET in each county courthouse and to improve the efficiency of court operations.

Recommendation #12: Modify the Budget Accounting Revenue System (BARS)

The Department of Commerce and the Office of Court Administrator should work together to modify the budget accounting revenue system (BARS) and establish a more uniform and precise county reporting system for court expenditures. Uniform and accurate reporting of court expenditure data is essential to determining the fiscal and operational status of Montana's court system.

Juvenile Justice Recommendation

Recommendation #13: Address Juvenile Justice Issues

The Legislature should thoroughly examine and expeditiously address serious problems with Montana's juvenile justice system and the Montana Youth Court Act, especially in the areas of confidentiality, sentencing, and extended jurisdiction involving serious juvenile offenders. Youth crime is increasing in frequency and violence, and many serious offenders who are released from the youth justice system or who "slip through the cracks" become repeat offenders. Furthermore, juvenile probation and Youth Court costs amount to

nearly 20% of District Court budgets statewide and are the single highest expense after the Clerk of District Court's general administrative and operational expenses. Reform of the juvenile justice system can help ensure that county and state funds are used more effectively. The JUFC also endorses the Youth Justice Council's work to study and resolve these issues.

CHAPTER 1

CONDUCT OF THE STUDY

Origin of Study

The 1993 Legislature established the Judicial Unification and Finance Commission (JUFC) in response to concerns raised by the State Bar of Montana and the Montana Association of Counties (MACo) that Montana's District Courts were running out of money. A 1990 study by the District Court Funding Committee of the State Bar of Montana concluded that, statewide, District Court funding fell \$3.4 million short of the \$15 million required to keep the courts operating.* Although the study concluded that the funding crisis did not affect all counties equally, the research found that 36 of Montana's 56 counties were experiencing District Court funding shortfalls. To address these issues, the District Court Funding Committee recommended that the Legislature initiate a thorough examination of court unification and finance.

House Bill No. 525 (Ch. 632, L. 1993) established the JUFC and provided that it consist of 13 members: three members appointed by the Governor, two members appointed by the Chief Justice of the Supreme Court, two Legislators, and one representative each from the State Bar of Montana, Montana Association of Clerks of Court, MACo, the Montana League of Cities and Towns (the League), the Montana Judges' Association, and the Montana Magistrates' Association. The Montana Legislative Council was directed to provide staff support.

* Based on MACo's most recent estimates, it costs nearly \$20 million to operate Montana's District Courts. (See Appendix B, Spreadsheet No. 3, FY 1994, County District Court Budgeted Expenditures.)

Study Tasks

In the enabling legislation, the Legislature directed the JUFC to study:

- possible unification of the Montana Judiciary;
- current and future funding of the Montana Judiciary;
- matters pertaining to judicial standards and selection; and
- other matters related to the efficient operation of the Montana Judiciary.

Study Funding

To fund the study, the Legislature provided for up to \$33,000 from the District Court Criminal Reimbursement Program (section 3-5-901, MCA) and from grants, gifts, and donations. The State Bar of Montana contributed \$2,000, and the Supreme Court Administrator secured a \$7,900 grant from the State Justice Institute.

Approach to Study

Acknowledging that it would be a challenge to accomplish all of its study tasks in the time allowed, the JUFC determined that it should focus on District Court funding, the driving issue behind the study. In adopting its study plan, the JUFC also decided to take a three-track approach and examine court finance, structure, and administrative issues together.

The following key questions guided the JUFC's study: How should Montana's court system be financed to ensure that judicial services are delivered equitably and effectively statewide? If the state assumes a greater role in financing the court system, to what extent should court structure and administration be modified to provide for the most efficient operation of the courts and to ensure accountability and control over the use of state funds?²

Major study activities included:

- examination of court structure, administration, and finance in Montana (see Chapter 2);³
- study of the history of court unification issues in Montana (see Chapter 3);⁴
- a comprehensive problem identification survey sent to District Court Judges, Clerks of District Courts, Magistrates, and County Commissioners;^{*5}
- examination of court systems in other states (see Chapter 4);⁶
- a panel discussion with nationally recognized experts in state financing, court unification, and the administration of unified court systems (see Chapter 5);⁷
- development and discussion of four alternative model court systems for Montana;^{* *8} and
- a public hearing on the JUFC's preliminary recommendations.⁹

Statement of Objectives

In the problem resolution phase of its study, the JUFC adopted 12 basic objectives to guide its consideration of options and development of

* Twenty-four District Court Judges, 40 County Commission chairpersons, 47 Clerks of District Courts, 25 Justices of the Peace, 24 City Judges, 27 judges who are both Justices of the Peace and City Judges, and 1 Municipal Court Judge responded to the JUFC survey. Survey results are provided throughout this report.

* * The four model systems that the JUFC considered were: (1) consolidation of courts of limited jurisdiction and total state funding; (2) total court consolidation under the District Courts and total state funding; (3) no court consolidation, but regional administration and almost total state funding of the system; and (4) no court consolidation, but regional administration and state funding of selected expenses.

recommendations.¹⁰ The JUFC's objectives were to:

- (1) provide that the state be ultimately responsible for court funding;
- (2) provide for the equal and efficient delivery of quality services statewide;
- (3) provide for a more equitable sharing of the tax burden for court funding;
- (4) prevent courts from becoming insolvent;
- (5) promote the financial independence of the Judiciary;
- (6) ensure flexibility to meet localized needs;
- (7) encourage voluntary efforts to improve court administration;
- (8) establish and enforce minimum standards to achieve the efficient and equal delivery of quality services statewide;
- (9) utilize existing funding sources and personnel to the greatest extent possible;
- (10) consider the political feasibility of each proposal or recommendation;
- (11) strengthen the Judiciary as a separate branch of government; and
- (12) promote long-range strategic planning for the Judiciary.

Summary

Tasked with studying court unification, court finance, judicial selection, and other matters affecting court operations, the JUFC conducted a total of eight meetings, including three 2-day meetings, between October 1993 and September 1994. During the 12-month study, the JUFC, its staff, and others conducted surveys, engaged national experts, analyzed dozens of books and articles, solicited comments and proposals from interested parties, and entered into many thoughtful discussions on pertinent issues. The remainder of this report provides the most relevant details of the JUFC's activities, beginning with an overview of Montana's court system in Chapter 2.

CHAPTER 2

OVERVIEW OF MONTANA'S COURT SYSTEM

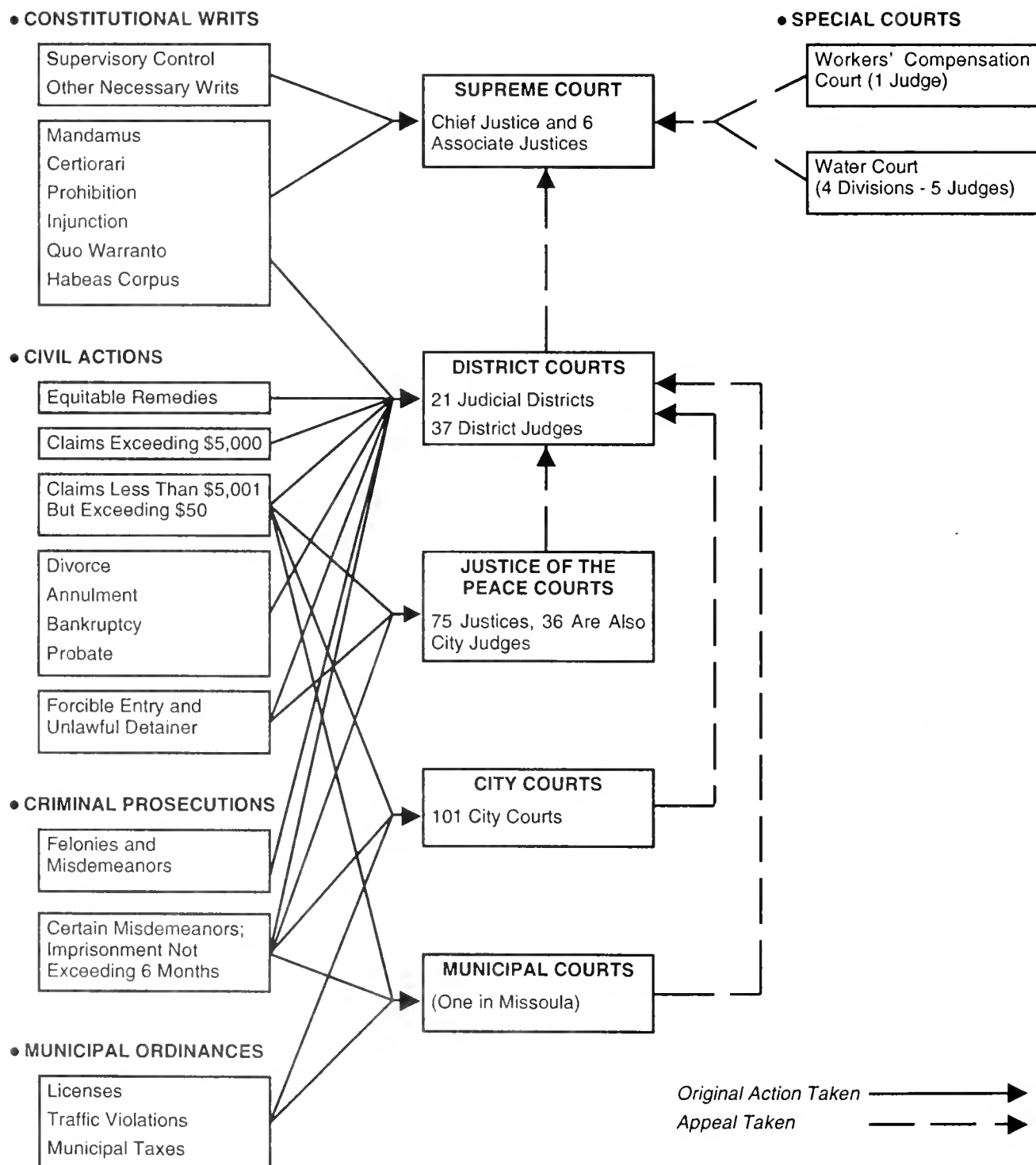
Court Structure

Article VII, section 1, of the Montana Constitution vests the judicial power of the state in "one supreme court, district courts, justice courts, and such other courts as may be provided by law". Thus, by constitutional law, Montana has two trial court levels: District Courts and Justice of the Peace (JP) Courts. The Legislature has provided for City and Municipal Courts (a third trial court level), a Water Court, and a Workers' Compensation Court. Jurisdictional boundaries, which overlap significantly, are defined by constitutional and statutory law. Figure 1.1 provides a simplified graphic summary of these overlapping jurisdictions.

Montana has 21 judicial districts, each with a District Court and a Youth Court. (See Figures 1.2 and 1.3 for a map and table profiling the judicial districts.) The Constitution mandates that each county have at least one JP Court. Montana has 75 JP Courts. There are 101 City Courts and 1 Municipal Court (Missoula). Although some City and JP Courts are consolidated, each court operates as a separate entity with its own budget and support staff.

Figure 1.1

Summary of Jurisdiction Exercised by Montana Courts



State of Montana Judicial Districts

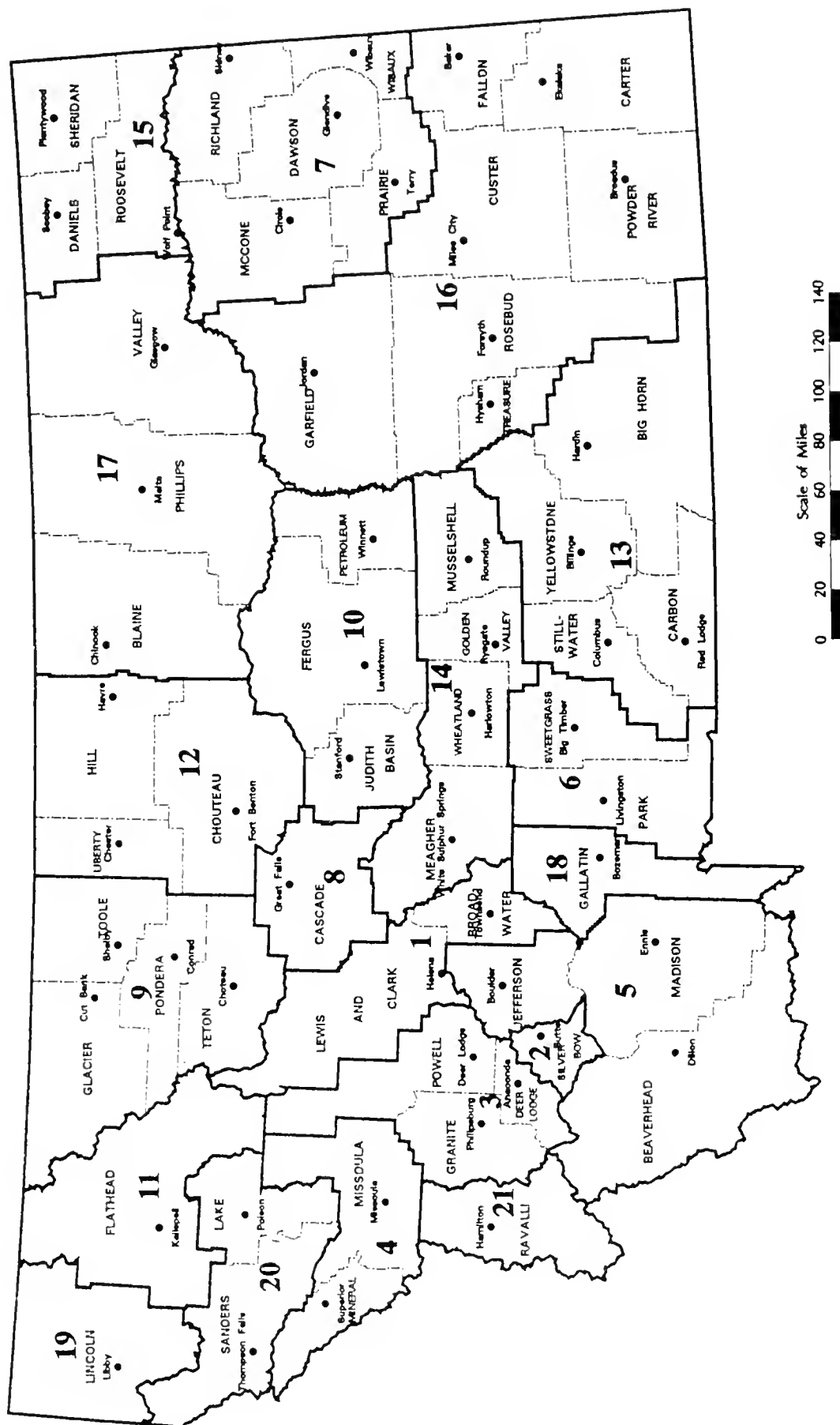


FIGURE 1.3: COMPARISON OF JUDICIAL DISTRICTS -- 1992

DISTRICT	COUNTIES	JUDGES	POP	AREA	DENSITY (Sq Mi)	TOTAL CASES FILED	TOTAL CASES PENDING	TOTAL CASES DISPOSED	TOTAL BACKLOG (1992)	AREA TO JUDGE RATIO	POP TO JUDGE RATIO	CASE TO JUDGE RATIO	CASE/POP RATIO (Per 10,000)
1ST	2	3	50,566	4,669	10.83	2,817	1,871	2,637	180	1,556	16,855	939	557
2ND	1	2	33,737	715	47.18	1,067	1,828	840	227	358	16,869	534	316
3RD	3	1	19,326	4,809	4.02	827	1,551	562	265	4,809	19,326	827	428
4TH	3	4	106,623	6,216	17.15	3,661	6,961	3,433	228	1,554	26,656	915	343
5TH	3	1	22,338	10,731	2.08	681	766	586	95	10,731	22,338	681	305
6TH	2	1	17,609	4,466	3.94	575	571	458	117	4,466	17,609	575	327
7TH	5	2	24,964	9,676	2.58	802	609	704	98	4,838	12,482	401	321
8TH	1	3	77,293	2,661	29.05	3,050	5,837	2,122	928	887	25,764	1,017	395
9TH	4	1	29,793	10,496	2.84	782	1,218	642	140	10,496	29,793	782	262
10TH	3	1	14,797	7,777	1.90	529	828	441	88	7,777	14,797	529	358
11TH	1	2	58,782	5,137	11.44	1,999	3,857	1,626	373	2,569	29,391	1,000	340
12TH	3	1	25,305	8,293	3.05	689	597	735	(46)	8,293	25,305	689	272
13TH	4	5	137,698	11,525	11.95	5,153	4,668	4,535	618	2,305	27,540	1,031	374
14TH	4	1	9,070	6,837	1.33	304	409	266	38	6,837	9,070	304	335
15TH	3	1	17,916	5,501	3.26	382	708	305	77	5,501	17,916	382	213
16TH	7	2	31,502	22,300	1.41	937	1,285	758	179	11,150	15,751	469	297
17TH	3	1	20,066	14,462	1.39	457	859	388	69	14,462	20,066	457	228
18TH	1	2	50,310	2,517	19.99	1,659	1,629	1,291	368	1,259	25,155	830	330
19TH	1	1	17,454	3,714	4.70	613	425	626	(13)	3,714	17,454	613	351
20TH	2	1	29,629	4,272	6.94	1,059	657	1,000	59	4,272	29,629	1,059	357
AVERAGE			39,739	7,339	9.35	1,402	1,857	1,198	204	5,392	20,988	702	336

*Source: Montana Office of Court Administrator, Annual Report of the Montana Judiciary System Calendar Year 1992

Court Administration

The Montana Constitution gives the Supreme Court "general supervisory control over all other courts".¹¹ The Supreme Court also has ultimate rulemaking authority over court procedures. However, the Supreme Court lacks a clear mandate to provide centralized administrative control over a unified court system.

Several boards and commissions assist the Supreme Court in carrying out its general supervisory role and in developing procedural uniformity and upholding certain standards of conduct within the Judicial Branch. In 1975, the Supreme Court established the Office of Court Administrator to collect information on how the state's courts were being managed and to further assist in fulfilling the Supreme Court's supervisory responsibilities. In 1977, the Legislature made the Office statutory.

The Court Administrator serves at the pleasure of the Supreme Court. The Court Administrator is charged by statute to: (1) prepare and present judicial budget requests to the Legislature; (2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the Legislature; (3) recommend to the Supreme Court improvements in the Judiciary; (4) administer state funding for District Courts;* and (5) perform other duties that the Supreme Court may assign. The law orders all court officers to comply with the Court Administrator's requests for information.¹²

However, Montana's courts remain administratively decentralized. Although some uniformity has been accomplished through procedural rules, training programs, and automated information management tools, each court of record has the authority to make rules "for its own government and the government

* The Office of Court Administrator administers the District Court Criminal Reimbursement Program provided for in section 3-5-901, MCA, which utilizes 7% of the 2% light vehicle tax (section 61-3-509, MCA) to reimburse counties for certain District Court expenses in criminal cases. This is discussed in further detail under the Court Funding heading in this chapter.

of its officers".¹³ While these rules may not be inconsistent with the rules adopted by the Montana Supreme Court, the lower courts retain wide discretion in establishing administrative procedures.

Except for some City Judges, Montana's judges are nonpartisan, independently elected officials. Supreme Court Justices are elected statewide, District Court Judges are elected in each district, and Justices of the Peace are elected in each county. City Judges may be elected or appointed. Judges act as court administrators, although they are not trained as such. Supreme Court Justices and District Court Judges must share administrative control with elected Clerks of Courts. The Clerk of the Supreme Court is an official elected on a statewide, partisan ballot, and a partisan Clerk of the District Court is elected in each county.

The Clerks of District Courts may hire deputy clerks to assist in carrying out the Clerk's functions, which generally include receiving, tracking, and storing case filings; collecting fees and fines; randomly assigning cases to District Court Judges; coordinating hearing or trial dates; selecting juries and scheduling witnesses; and performing other administrative tasks.

Each District Court Judge may appoint and sets the salaries of a court reporter and juvenile probation officers.¹⁴ If the county budget permits, a District Court Judge may also hire a law clerk and a secretary. Eight judicial districts do not employ judicial secretaries, and 13 districts do not employ law clerks.¹⁵

Court Funding

Montana's court system is funded by state and local revenue. The state funds the Supreme Court entirely from the state general fund. District Court Judges' salaries, travel, training, and benefits are also paid from the state general fund. District Court expenses are paid primarily by the counties, with some state reimbursement for expenses in criminal cases. Expenses of JP Courts are

funded by county general funds. Expenses of City or Municipal Courts are funded by the city.

The JUFC's study focused on District Court funding. District Court expenses generally include costs for: the Office of the Clerk of District Court; basic judicial services and operating costs; judicial support staff; Youth Court, including juvenile probation officers and office expenses; witness and jury fees; indigent defense; and psychiatric examination and treatment during commitment proceedings.

In providing for District Court expenses, a county may utilize its general fund money, revenue from a statutorily capped District Court mill levy, a 0.5% local option light vehicle tax, or a combination of these sources. Additionally, a county receives state funds through the District Court Criminal Reimbursement Program, which reimburses counties for certain expenses in criminal cases. In multicounty judicial districts, costs are split among the counties, based on cases filed.*

District Court Mill Levy: Statutorily, District Court expenses may be funded as follows: first- and second-class counties may levy up to 6 mills each; third- and fourth-class counties may levy up to 5 mills each; and fifth-, sixth-, and seventh-class counties may levy up to 4 mills each.¹⁶ However, the mills levied are subject to the overall mill levy cap imposed on counties by the passage of Initiative Measure No. 105. (See Title 15, chapter 10, part 4, MCA.) A county may exceed the District Court mill levy cap only to raise the same amount of revenue as the allowed mills would have raised in 1986, the year that the initiative was approved by the electorate.

Local Option Light Vehicle Tax: Counties may choose to impose an optional 0.5% light vehicle tax to help fund county programs. Some counties use the

* Appendix B provides spreadsheet data compiled by MACo on each county's District Court budgeted expenditures, property tax and nonproperty tax revenue sources, revenue shortfalls, District Court mill levy, and per capita property tax burden for District Court expenses.

revenue to help fund their District Courts, but counties are not now required to do so.¹⁷

The local option tax was passed by the 1987 Legislature (Ch. 611, L. 1987) as a temporary, short-term solution to county funding shortfalls. In 1991, the Legislature made the local option tax permanent but placed a June 30, 1993, sunset on the amendments that allowed counties to retain 50% of the revenue and share the other 50% with cities, apportioned by population (Ch. 749, L. 1991). The 1993 Legislature extended the sunset to June 30, 1995, because of concern that the loss of revenue would negatively affect District Court funding (Ch. 217, L. 1993).

State Criminal Reimbursement Program and Grant Program: State special revenue collected from 7% of the 2% tax on light vehicles is statutorily appropriated to the Supreme Court to reimburse counties for District Court expenditures in criminal cases.¹⁸ Reimbursable expenses include costs for court reporter salaries, transcripts, witness fees and expenses, jury fees, indigent defense, and psychiatric examinations.¹⁹

The District Court Criminal Reimbursement Program was established in 1985 as a way to keep "poor" counties from being overwhelmed by the significant District Court costs incurred in large criminal trials.

The 7% of the 2% light vehicle tax has generated about \$3 million annually for the past several years, which has been sufficient to reimburse counties for 98% to 100% of their criminal case expenses.²⁰

After criminal reimbursements have been paid, any remaining balance is allocated to qualified counties in the form of grants. A county qualifies to receive a state grant if the county's District Court costs were more than the sum of the amount that the maximum allowable mill levy raised (or would have raised if levied) plus other additional revenue (such as fees) that is required to be deposited in the county fund for District Courts.²¹

If a county fails to sufficiently fund District Court operations, the District Court may order the county to cover court costs.

Summary

Montana's court system consists of two trial court levels: District Courts in 21 judicial districts exercise general jurisdiction, and 176 JP and City Courts exercise limited jurisdiction. Notably, JP Courts are constitutionally established.

Administration of Montana's court system is decentralized and fragmented. Although the Office of Court Administrator assists the Supreme Court in fulfilling its constitutional general supervisory role over all other courts, each court is administered as a separate entity. Furthermore, administrative authority within District Courts must be shared between elected District Court Judges and elected Clerks of District Courts.

Montana's court system is funded from state and local revenue. The state general fund finances the Supreme Court (including various boards and commissions), the Office of Court Administrator, the State Law Library, the Clerk of the Supreme Court, and the salaries, expenses, and benefits of District Court Judges. Each county must fund the District Court in the county's judicial district, although counties are reimbursed by the state (from 7% of the 2% light vehicle tax) for most expenses in criminal cases. A county may fund District Court expenses from its general fund, a statutorily capped District Court mill levy, a 0.5% local option light vehicle tax, or a combination of these sources.

CHAPTER 3

HISTORY OF COURT UNIFICATION ISSUES IN MONTANA

Judicial reform is not a sport for the short-winded.

-- Arthur Vanderbilt, 1888-1957

Background

Efforts to restructure state judicial systems are nearly as old as Montana's courts. Court unification was advanced as early as 1906, when American educator and jurist Roscoe Pound charged that there were too many courts, a needless overlapping of jurisdictions, and a waste of judicial manpower. In subsequent journal articles and addresses, Pound called for a simplified trial court structure, a centralized administration, and a uniform method of paying and supervising personnel. Pound's reform ideas initially met with strong opposition but gathered support in the 1960s. Organizational standards based on a consolidated court system were formally articulated by the American Bar Association (ABA) in 1962 and reiterated in 1974 and 1978.²²

However, the practical advancement of the ABA's model unified court system has been slow, and today the course is still being run in many states.

The inherent inertia of the Judiciary has resulted in what some observers have termed a piecemeal and uncoordinated approach to improving the administration of justice. In Montana, the approach has been to create new judicial districts and courts or to add judges to handle increased caseloads.

The Montana Legislature has altered judicial district boundaries and the number of District Court judgeships 25 times since 1889, when the Montana Constitution established the original eight judicial districts encompassing 16 counties. The number of judicial districts has grown to 21, with a total of 37 District Court Judges. The latest change was enacted in 1991 when the 52nd Legislature took Ravalli County from the Fourth Judicial District and made it the

new Twenty-First Judicial District. The number of courts of limited jurisdiction has increased from the constitutionally mandated one Justice of the Peace in each county to 78 Justices of the Peace in 56 counties. In all, 21 judicial districts, 2 special courts, and 176 courts of limited jurisdiction administer justice in Montana.²³

Whether the expansion of the Judiciary is directly proportional and appropriate to population and caseload increases cannot be documented. However, the number of previous studies aimed at judicial reform in Montana indicates a perception that Montana's court system has become ungainly and inefficient.*

1972 Constitutional Convention

Court unification was debated during the 1972 Constitutional Convention.²⁴ The key issue of the debate was whether to include in the judicial article a framework for a unified judicial system. Many delegates argued for language giving the Supreme Court clear administrative control over all other courts, for deleting the constitutional status of JP Courts, and for appointing rather than electing the Clerk of the Supreme Court and Clerks of District Courts. Many other issues were also discussed. However, the status quo was, for the most part, retained and few changes to the 1889 Constitution's judicial article were adopted.²⁵

1974 State Commission on Local Government

A 1974 act created the State Commission on Local Government to study ways to improve local government operations. (See Ch. 222, L. 1974.) The Commission identified District Court financing as a problem area and published a report in 1977 recommending that the state fund most court costs.²⁶

* For a more complete summary of previous studies, see Sheri S. Heffelfinger, Review of Previous Studies on Montana's Judiciary, prepared for the JUFC by the Montana Legislative Council, August 1993.

1975 Subcommittee on the Judiciary

In 1975, the Senate Judiciary Committee requested a study to reorganize Montana's existing judicial districts, and a Subcommittee on the Judiciary was appointed to the task. Although several of the Subcommittee's recommendations failed to survive the 1977 Legislative Session, the Legislature did pass the Subcommittee's recommendations to create three new judgeships and a new Nineteenth Judicial District and to statutorily establish the Office of Court Administrator.²⁷

1982 Joint Subcommittee on the Judiciary

A Senate joint resolution passed by the 1981 Legislature requested a study of three issues: (1) the restructuring of District Courts; (2) creation of a statewide system for representing indigent defendants; and (3) development of a statewide District Attorney system for criminal prosecutions. The study represented a renewed attempt at gaining support for court unification and state funding. The study committee's efforts eventually resulted in the establishment of the District Court Criminal Reimbursement Program discussed in Chapter 2.²⁸

1984 Joint Interim Subcommittee No. 3

A bill* to unify Montana's court system, was introduced in the 1983 Legislative Session but was tabled in committee. As a compromise, the Legislature established a subcommittee to study court unification. The 1984 Joint Interim Study Committee No. 3 discussed several options to consolidate Montana's trial courts, but it did not develop a recommendation to structurally unify Montana's courts.²⁹ Rather, the Committee's recommendations focused on centralizing court administration.

* Senate Bill No. 440

1990 Study by the State Bar of Montana -- Creation of the JUFC

Most recently, the State Bar of Montana in 1990 formed a District Court Funding Committee to study court finance. In 1992, the State Bar concluded that a comprehensive legislative study was in order.

The State Bar's 1992 study proposal, which led to the creation of the JUFC, concluded that court unification may provide a long-term solution to the fiscal problems facing Montana's District Court system. State funding of Montana's District Courts was a key objective of the State Bar's court unification study proposal.³⁰

CHAPTER 4

COURT SYSTEMS IN OTHER STATES

To help place Montana's court system and the potential for court unification in perspective, the JUFC examined court structure, administration, and finance in other states. This chapter summarizes court unification and state funding issues in several states.³¹

Types of Court Structure

Court systems generally consist of four basic components: a court of last resort, an intermediate appellate court, courts of general jurisdiction, and courts of limited jurisdiction. Each state has developed its own variation on this basic structure. Each state's court structure fits into one of four broad categories:

- **consolidated** - a single trial court structure, which is generally considered a unified court structure;
- **mainly consolidated** - two trial court levels, but with uniform trial court jurisdiction in lower trial courts;
- **mixed** - two levels of trial courts with overlapping jurisdictions; and
- **complex** - several general jurisdiction courts with overlapping jurisdictions.

Only 6 states, including Idaho and South Dakota, have consolidated court structures; 15 states have mainly consolidated structures; 15 states, including Montana, North Dakota, and Wyoming, have mixed court structures; and 14 states have complex court structures.³²

Use of Court Administrators

A 1989 study by the National Center for State Courts (NCSC) identified 29 states that have regional or local trial court administrators, most of whom are state-paid professionals. However, in other states, trial court administrators are locally paid officials. It is notable that of the six states with consolidated court structures, only Massachusetts does not utilize trial court administrators.³³ The following provides a summary of trial court administrators in selected states:

South Dakota: South Dakota has two regional court administrators and six administrative secretaries. These positions are state-funded as part of a unified judicial system.

Idaho: Idaho has seven regional court administrators who are state-funded but who are not considered part of the State Court Administrator's staff. Idaho has a consolidated court structure.

North Dakota: North Dakota has six regional administrators, all state-paid, but they are not part of the State Court Administrator's staff. North Dakota has a mixed court structure.

Wyoming and Montana: Wyoming and Montana do not have regional or local trial court administrators. Both states have mixed court structures.

Effects of State Funding

State funding of court systems can be provided in a variety of ways. Three basic methods include complete state assumption of court costs, state reimbursement programs, and block grants. Each method may be administered in a variety of ways and, under certain conditions, may be designed to control how state funds are obtained or utilized.

Reports published by the NCSC examined the effects of state financing on court systems in selected states.* These reports concluded that there is neither overwhelming support nor an outpouring of criticism about state financing. In other words, state funding is not a cure-all, nor is a lack of it a disaster; rather, it is a tradeoff between local control and variation on the one hand and greater standardization and reduced inequities on the other. Significantly, the studies also concluded that the driving force behind state funding and court unification has recently been and will likely continue to be the inability of local governments to fund their courts, not the demand to improve service delivery.³⁴

Based on the findings of the NCSC studies, state financing:

- may result in higher than current funding levels;
- may improve funding stability, depending on the revenue sources utilized;
- reduces funding inequities between courts;
- will have minimal impact on how personnel are assigned to handle caseloads;
- will improve accountability for the use of funds but may not cure the inherent difficulties of court budgeting;
- may or may not result in more efficient court operations;
- will help standardize salaries and job descriptions of court personnel;

* Each state approached the transition to state financing differently and for different reasons, which makes it difficult to systematically analyze the effects of state financing. The NCSC's conclusions should be considered in this context.

- will improve the Judiciary's standing with the Legislature but may worsen the Judiciary's relationship with local governments; and
- may or may not improve service delivery.

CHAPTER 5

COURT UNIFICATION: A DISCUSSION WITH EXPERTS

At the JUFC's special invitation, four guest panelists offered their experiences in and insights into court unification, finance, and administration in other states and discussed the potential implications for Montana.³⁵ The panelists included:

- Mr. Dan Schenk, Personnel Administrator, Court Administrator's Office, South Dakota Unified Judicial System;
- Mr. Robert Tobin, Senior Staff Attorney, National Center for State Courts, specializing in court finance with a background as a consultant on court unification;
- Mr. Harry O. Lawson, Professor, University of Denver Law School, specializing in court administration issues and author of several works on court administration; and
- Mr. Carl Baar, Professor, Department of Politics, Brock University, St. Catharines, Ontario, Canada, author and Canadian scholar on state court systems in the United States. *

Dan Schenk, South Dakota Unified Judicial System

Mr. Schenk presented his perspective on the administration of South Dakota's Unified Judicial System. South Dakota has had a unified court system since 1975, when court unification was part of a comprehensive reorganization of state government. However, state assumption of District Court funding stretched over 10 years.

* Professor Baar also testified before the 1984 Joint Interim Subcommittee No. 3 during its study of court unification.

Mr. Schenk reported that South Dakota's unified court system is working very well and has resulted in greater uniformity, enhanced administrative fairness and accountability, and more visibility for the Judiciary. The South Dakota Judiciary speaks with one voice and offers a single, statewide judicial information source. According to Mr. Schenk, unification has not compromised the public's access to and communication with local judges and court officials. In response to concerns about the loss of local control, Mr. Schenk emphasized that, in his opinion, the fair and evenhanded administration of justice should not be subject to local politics. Judges and courts needed to remain totally impartial and apply the law with an even hand.

Mr. Schenk suggested that if Montana moves toward court unification, the state should try to achieve 100% state funding as soon as possible to avoid some of the pay equity problems and funding conflicts (state versus local) encountered by South Dakota. He noted a sense of unfairness and inequity about Montana's court system and suggested that steps toward unification could help address those issues.

Robert Tobin, National Center for State Courts

Mr. Tobin explained that court unification is defined differently depending on whether a state is working to consolidate courts and reduce the number of judges, to centralize support services, or to provide centralized state funding. He noted that in recent years, funding issues, rather than a call for structural or administrative reform, have driven states to seek court unification. Mr. Tobin reported that about 30 states provide some form of state funding to their courts; fewer states have unified court systems. He also noted that states vary on how they control and account for the use of state funds.

California is seeking to unify its Superior Courts and Municipal Courts, but not without a great deal of controversy. Furthermore, state funding in California is through a block grant program, an approach to state financing that is unique in the U.S.

Utah is in the process of a phased-in unification and is approaching unification through pilot projects to unify rural courts first.

Minnesota is one of the states to most recently unify its court system and is beginning by centralizing court administration.

North Dakota is unifying its county courts and, to address inefficiencies, is reducing the number of District Court Judges from 51 to 42, which has been a challenging process.

Mr. Tobin said that he believes that court unification and state funding have improved state court systems but that he is mindful that much depends on the state's tax base. For example, Florida's tax and finance structure allows its counties to enjoy a stronger tax base than the state as a whole, which makes Florida policymakers reluctant to consider state financing.

Mr. Tobin concluded that the major benefit of unification is a more efficient and equitable allocation of resources.

Harry O. Lawson, University of Denver Law School

Professor Lawson emphasized that state funding and court unification can be pursued separately. In Colorado, for example, while the courts are entirely state funded, they are not unified. Echoing Mr. Tobin, Professor Lawson indicated that court unification was often driven by a desire for state funding and added that most often, County Commissioners are the ones leading the charge. Professor Lawson noted that when state funding is provided, the Legislature begins to take a proprietary interest in the judicial system.

Pointing to some of the pitfalls in making the transition to a state-funded system, Professor Lawson warned that clear decisions should be made about who owns the court facilities, that the state payroll system should be completely tested before actual conversion, and that a personnel classification

study should be undertaken before implementing a statewide Judicial Branch pay plan.*

Professor Lawson also recommended that Montana seriously consider a state-funded public defender system to provide the most effective and efficient counsel for indigent persons. He also advised that some measure of court consolidation be pursued to address Montana's overlapping jurisdictions and multiple layers of limited jurisdiction courts.

Professor Lawson emphasized that Montana should be approaching judicial reform with an eye to the future and what the state's needs will be 20 or 30 years from now.

Carl Baar, Brock University, Ontario, Canada

Professor Baar offered a more cautionary tone about court unification and state funding, but pointed out that Montana would be unique if it could effectively manage and improve on its current system without unification and state funding. Noting that 10 years ago he testified before Montana's 1984 Joint Interim Subcommittee No. 3, Professor Baar expressed his sense that Montana still wasn't satisfied with its current system and that there was a need for improvements to court structure and administration beyond state financing.

Responding to questions, Professor Barr said that there was no ideal court system or "utopia". Of the unified court systems, he thought that Minnesota's system was the best. Of the nonunified systems, Washington's system impressed him most.

* Professor Lawson later provided the JUFC with data indicating that a classification and pay study for Montana's court system could take about 18 months and cost about \$42,000.

CHAPTER 6

COURT FUNDING RECOMMENDATIONS

Recommendation #1: Cost-Sharing Program in Civil Cases

The Legislature should enact LC 67 to provide state funding for up to 50% of each county's most volatile or uncontrollable court expenses in civil cases: indigent representation, juvenile probation, and court reporter salaries. The program should be funded by a statewide 0.1% tax on light vehicles. In addition, the existing 0.5% local option light vehicle tax, used by some counties for District Court funding, should be reduced to 0.4%, the sunset on the disposition of the tax revenue to counties and cities should be repealed, and counties should first use the revenue to fund District Court needs.

Issue Summary

Stability, equity, and sufficiency of funding for Montana's District Courts were the key issues prompting the JUFC's study. As discussed in Chapter 2, counties are primarily responsible for funding District Courts. A county may utilize general fund money, revenue from a statutorily capped District Court mill levy, a 0.5% local option light vehicle tax, or a combination of those sources to fund the District Court. Additionally, a county may receive money from the state through the District Court Criminal Reimbursement Program, which reimburses counties for most expenses in criminal cases.

More than half of Montana's counties are experiencing serious shortfalls in their District Court budgets. District Court expenses, such as indigent defense and juvenile probation, are volatile and unpredictable. Unexpectedly high expenses can seriously affect the stability of county budgets and fiscally hurt some counties more than others. Furthermore, County Commissioners have no authority to control some expenses that are dictated by statute, such as salaries for court reporters and juvenile probation officers.

Another funding issue is the use of county property taxes as the primary source of District Court funding. Property values vary significantly among Montana's counties, creating an unequal per capita tax burden, an unequal tax capacity, and a disparate allocation of resources among counties for District Court expenses.

Objectives

The objectives of Recommendation #1 are to:

- temporarily address serious District Court funding shortfalls in several counties until a long-term solution can be developed (see Recommendation #2);
- help equalize the funding burden for the state court system;
- direct state funding toward the most unpredictable and uncontrollable expenses in civil cases; and
- allow counties to retain decisionmaking authority in court budgeting and staffing matters, but avoid having the state pay the entire bill for county decisions.

Testimony and Research

State Bar of Montana Committee Report: A report by the District Court Funding Committee of the State Bar of Montana concluded that at least 36 counties have experienced funding shortfalls* affecting their District Courts. One of the most visible examples of this type of fiscal stress occurred in the District Court in the Eighth Judicial District (Cascade County) in 1990 where,

* "Shortfall" is used here as the difference between a county's budgeted expenditures and actual expenditures and does not capture cumulative deficits in a county's District Court fund or reserve funds.

due to a lack of funds, the District Court did not conduct civil jury trials for several months. Also in 1990, Custer County had to operate under a court order that resulted in deficit spending to pay for District Court operations. Having observed these two cases and others, the Committee concluded that District Court funding was a statewide problem requiring a statewide solution, i.e., state funding of the District Courts.³⁶

Testimony: The following summarizes key testimony presented to the JUFC during the problem identification phase of its study.

State Bar of Montana: Mr. Robert Carlson, President of the State Bar of Montana, testified that District Court funding was a serious and statewide problem. He noted that District Courts and JP Courts generate the equivalent of 60% of their operating costs but that most of the revenue is statutorily sent elsewhere.* Mr. Carlson said that the state should be responsible for funding the court system and should disperse funds equitably statewide.³⁷

Cascade County Commissioners: Cascade County Commission Chairman Harry B. Mitchell testified that the current District Court funding system is inadequate and unfair. He cited a history of state legislative actions that raised District Court costs, such as increases in juror fees, salary raises for court reporters and juvenile probation officers, and procedural shifts in costs from the state to the District Courts (such as costs for psychiatric evaluations), without providing counties with a funding method. Commissioner Mitchell also noted that court funding based on county property taxes is inequitable. He said that, measured by property value per capita, Rosebud County is the richest county but has minor court costs, while Cascade County is the poorest county and has significant court costs. Commissioner Mitchell stated that the 0.5% local option light vehicle tax was a necessary but temporary solution to a serious statewide District Court funding problem.³⁸

* Section 3-10-601, MCA, provides that 50% of the fines, penalties, and forfeitures collected in JP Courts must be remitted to the State Treasurer. The money is then allocated to various state programs. As provided under section 25-1-201, MCA, most District Court fees are also allocated for special programs.

The Honorable Tom McKittrick, District Court Judge, Eighth Judicial District (Cascade County): Responding to questions, Judge McKittrick said that District Court funding deficits emerged after the Legislature, in 1976, established a statutory cap on the mills that could be levied specifically for District Courts. Since that time, the mill levy has been viewed as the exclusive source of funding for the District Courts, which, he said, is unworkable.³⁹

Montana Association of Counties (MACo): Mr. Gordon Morris, Executive Director of MACo, told that JUFC that MACo has supported state assumption of District Court funding since 1976. He stated that state financing would correct two interrelated problems: the inequalities of county property tax bases, which create disproportionately high (or low) individual property tax burdens across the state; and the funding variances from county to county across the state, which result in courts receiving unequal resources and perpetuate a lack of uniformity in service delivery. Mr. Morris emphasized that MACo did not think that property taxes were the appropriate funding source for District Courts.

Mr. Morris also expressed concern about the tension between the Judiciary and County Commissioners. Commissioners, he said, are politically accountable for tax increases to fund court operations and should not have to operate under the "gun" of court-ordered funding.

Mr. Morris stated that MACo believes that a state-financed system will improve budgetary accountability for the courts and that counties will no longer be a conduit for court-ordered expenditures.

Responding to questions, Mr. Morris said that MACo would prefer to leave the local option light vehicle tax discretionary rather than have the tax made mandatory for District Court funding. He also expressed the view that even if it was made a mandatory tax, the light vehicle tax would be only a temporary funding solution. The long-term solution, according to Mr. Morris, was for the

state to assume funding responsibility for District Courts as part of comprehensive tax reform.⁴⁰

Ms. Randi Hood, Lewis and Clark County Public Defender: Ms. Hood, who has served as Chief Public Defender in Lewis and Clark County for more than 11 years and was Chairperson of the State Bar of Montana's Public Defender Committee, summarized problems with Montana's public defender system. She specifically noted problems with low and varying rates of pay among counties, minimal support services, heavy workloads, and a lack of expertise. Ms. Hood estimated that the state reimburses 45% to 55% of county public defender costs through the District Court Criminal Reimbursement Program; counties pay the rest. Some counties have full-time public defenders; others contract with attorneys in private practice. Consequently, compensation is not determined uniformly and public defenders who are paid by the hour (contracted private attorneys who do not place a high priority on indigent cases) are paid better than salaried public defenders. Ms. Hood also pointed out that the low pay attracts mostly younger, inexperienced public defenders. Inexperience can result in mistakes and the inefficient handling of caseloads, which can result in additional costs.

Ms. Hood recommended enhanced state funding and staffing of the state Office of Appellate Defender to improve efficiency and effectiveness in the handling of appeals.

Expressing support for total state funding of public defender costs, Ms. Hood said that public defenders could be regionally coordinated, which would save money because counties that do have a full-time public defender would not end up paying more for a court-appointed attorney in private practice. Furthermore, a pool of more experienced public defenders could handle more cases with fewer mistakes.⁴¹

Ms. Judy Meadows, Montana State Law Librarian: Ms. Meadows testified that two of every five Montana courts have no law clerks and no computer-assisted

legal research capability. Ms. Meadows reported that the average number of legal publications available at the county level is less than 12 and that court budget cuts averaged 23% over the last 5 years, while prices for legal publications were increasing, which has seriously eroded the ability of courts to obtain basic legal publications. She also noted that 77% of the county law libraries have a critical shortage of space and that only five judicial districts use online legal research systems and of the five districts, two cannot access national data bases.*⁴² (See Chapter 8 for the JUFC's recommendations on court information technology.)

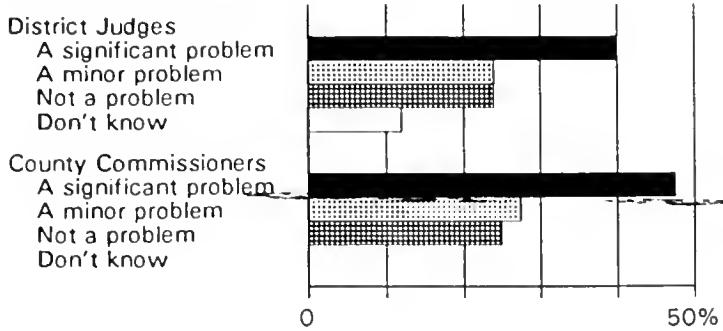
Attorney General's Office: As the JUFC entered into discussion of court funding options, Ms. Betsy Griffing, Assistant Attorney General, testified that Attorney General Joe Mazurek would caution the JUFC about the difficulty in winning legislative approval for total state funding without accountability for the funds at the local level.⁴³

Problem Identification Survey Findings: In its survey of District Court Judges, County Commission Chairpersons, Magistrates, and Clerks of District Courts, the JUFC found that District Court funding is considered a serious problem in nearly half of the counties, as shown in Figure 6.1.

* The data reported by Ms. Meadows was based on survey data that she collected in November 1993. She surveyed each District Court Judge and each Justice of the Peace. Only four District Court Judges did not respond.

Figure 6.1

Degree funding is problem by Judges and Commissioners

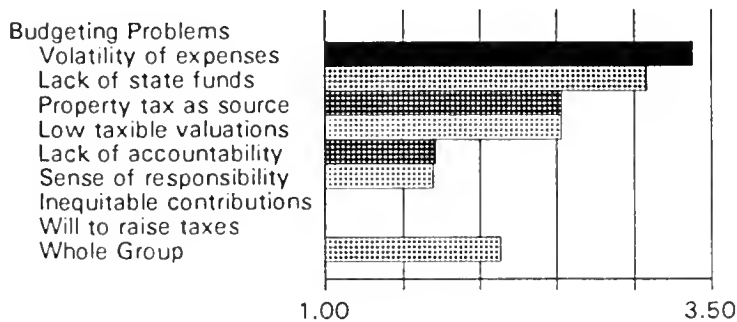


Note: Frequencies on 65 replies.

Shows how District Judges and County Commissioners responded when asked how much of a problem, overall, district court funding is in their county or judicial district.

Most District Court Judges and County Commissioners indicated that the volatility of expenses and the lack of state funds posed the greatest problem in budgeting for District Court operations. (See Figure 6.2.)

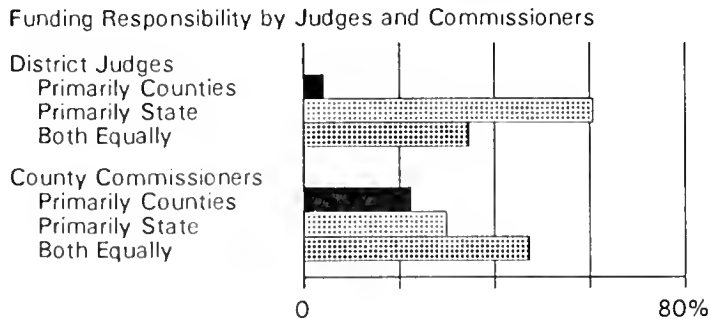
Figure 6.2



Shows median responses of District Judges and County Commissioners asked to rate on a scale of 0 to 4 how significant of a problem each item was for their court or county.

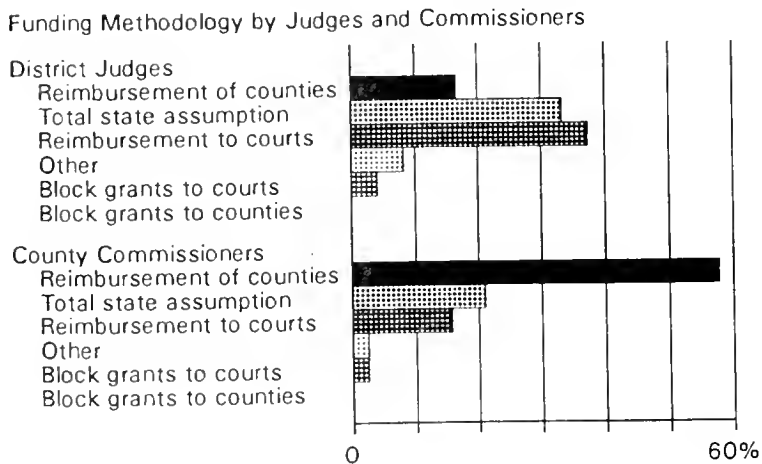
While nearly 60% of the District Court Judges responded that the state should be totally responsible for District Court funding, County Commissioners would prefer to retain control over District Court budgets and have the state share District Court costs equally with the counties. Furthermore, nearly 60% of the County Commissioners felt that state reimbursement to the counties was the best way of providing state funding. (See Figures 6.3 and 6.4.)

Figure 6.3



Shows how District Judges and County Commissioners responded when asked who should be responsible for District Court funding.

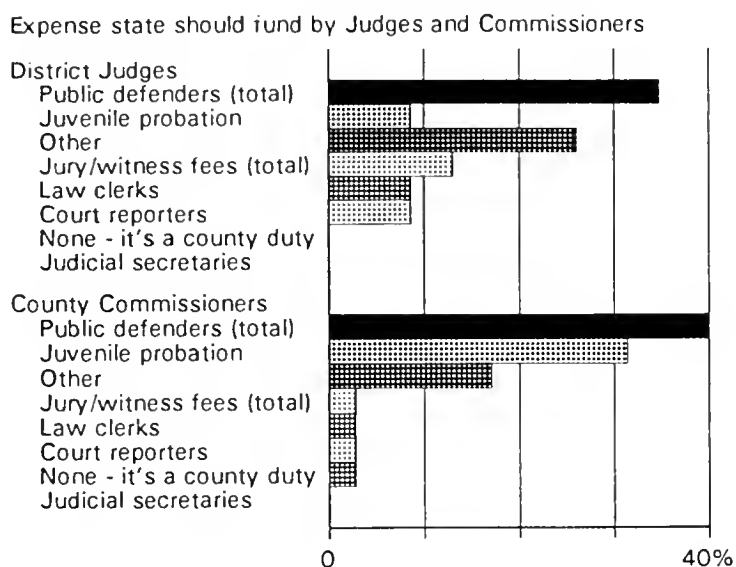
Figure 6.4



Shows which methods of court funding District Judges and County Commissioners like best. Commissioners prefer reimbursement of counties, while Judges prefer total and direct state funding.

Public defender, juvenile probation, and psychiatric expenses* were most frequently identified as the most important expenses for the state to fund. Many County Commissioners' written responses indicated substantial resentment at having to pay state-established court reporter salaries. (See Figure 6.5.)

Figure 6.5



Shows how District Judges and County Commissioners responded when asked which one expense was most important for the state to fund.

* Psychiatric expenses was the response most often written in to identify "other".

Commission Discussion and Action

Options Considered: The JUFC explored several funding options: state funding of a consolidated court system, state funding down to JP Courts with no court consolidation, state funding down to District Courts with no court consolidation, and state funding of selected District Court expenses.

State funding of a consolidated court system: One of the model court systems considered by the JUFC was a completely state-funded unified court system with the courts of limited jurisdiction (City, Municipal, and JP Courts) consolidated under the District Court. The estimated cost of this option was \$25 million to \$30 million.* In light of the substantial cost of unification without any guaranteed cost savings** and in the face of strong opposition from cities because of the potential loss of revenue, the JUFC did not further pursue total state funding of a unified court as a practical option.⁴⁴

State funding down to the JP Courts: Another model court system considered by the JUFC was a state-funded system down to the JP Court level, but without court consolidation. The rationale for this option was that JP Courts are also county-funded courts and should be considered part of the court funding burden under which counties are struggling. However, further discussion yielded little interest in pursuing the option unless JP Courts were consolidated under the District Courts. Recognizing that such consolidation would require a constitutional amendment, the JUFC decided that this, too, was not a practical option.⁴⁵

State funding of the District Courts: The consensus among JUFC members was that District Courts are, in fact, state courts and that to provide sufficient, stable, and equitable funding, the state should assume total District Court funding responsibility, with or without further consideration of court

* This includes \$20 million for District Courts and \$5.4 million for JP and City Courts. See data provided at Appendix B.

** See analysis of effects of state financing in other states provided in Chapter 4.

consolidation. To find sources for state funding, the JUFC turned first to existing revenue sources.⁴⁶

Figure 6.6 summarizes current funding sources for District Courts. It should be noted that county general fund money is not included as a funding source because the intent of the JUFC was to utilize other funding sources. District Court fees are also not included because that revenue was considered negligible.

Figure 6.6
SUMMARY OF CURRENT FUNDING SOURCES

FUNDING SOURCE	ANNUAL REVENUE
If each county imposed the full District Court mill levy up to current statutory caps	\$ 9.8 million *
If each county imposed the 0.5% local option light vehicle tax	\$12.8 million
Current costs to counties for operation of JP Courts	\$ 3.4 million **
Criminal Reimbursement Program (7% of the 2% light vehicle tax)	\$ 3.3 million
Current state general fund budget for District Court judicial salaries, travel, and expenses	\$ 2.9 million
Current state general fund budget for all other Supreme Court and Office of Court Administrator expenses	\$ 2.5 million
TOTAL	\$34.7 million

Notes:

* In fiscal year 1992, counties utilized \$7.8 million statewide from District Court mills: 21 counties imposed the maximum levy allowed; 5 counties imposed more than their cap, which is allowed if needed to raise the revenue that the maximum mills would have raised when I-105 imposed a cap on total county mills in 1986; and 30 counties imposed less than the maximum allowed. (See Appendix B.)

** JP Court funding was considered because the JUFC was still considering state funding down to the JP Court level. The \$3.4 million revenue estimate is based on survey data collected by the Office of Court Administrator.

After further discussion about how to provide state funding, the JUFC agreed that it would be difficult to raise the required revenue without recommending a new, broad tax in the context of a comprehensive tax reform debate. (See Recommendation #2: Continue to Explore Long-Term Solutions.) The JUFC turned to its final option, funding of selected court expenses.⁴⁷

State funding of selected District Court expenses: Based on the limited funding available and a review of the most significant expenses affecting District Court budgets, the JUFC targeted state funding toward the most volatile or uncontrollable District Court expenses in civil cases: indigent representation, juvenile probation, and court reporter salaries.

How Selected Expenses Were Identified: As presented in previous testimony, public defender salaries are comparatively low and inequitable among jurisdictions. The JUFC believed that state funding of public defenders would provide for more efficiency and equity. Results of state funding should include fewer costly mistakes made by inexperienced public defenders and the coordination of indigent representation on a regional basis.⁴⁸

Juvenile probation was targeted because, according to MACo's data, that expense is the single highest expense for District Courts statewide (nearly 20% of the total budget) after the administrative "catchall" expenses of the Offices of Clerks of District Courts. Additionally, District Court Judges appoint juvenile probation officers, and the officers' salaries are established by state statute.⁴⁹

Court reporter salaries were targeted because of the complex pay and employment relationship involving the county, the state, the appointing

judge, and the parties paying transcript fees.*

Staff from the Office of Court Administrator provided the JUFC with "ballpark" estimates of costs. State assumption of public defender expenses in civil cases was expected to cost about \$1.7 million annually, based on the premise that the District Court Criminal Reimbursement Program, which reimbursed counties \$1.6 million for indigent defense in fiscal year 1993, paid for a little less than 50% of the total costs. State assumption of court reporter salaries was expected to cost about \$1 million annually. Finally, state assumption of juvenile probation expenses was expected to cost about \$3.4 million annually.⁵⁰

Using the 0.5% Local Option Tax: Because the local option light vehicle tax was passed by the 1987 Legislature as a means of assisting counties to meet funding needs, including District Court needs,** the JUFC agreed that it would be reasonable to make a portion of that optional tax mandatory for state funding of District Courts. Requiring the use of a portion of the tax would also address an equity issue. Although some counties have used the tax for District Court expenses, many counties use the revenue for other programs.⁵¹ In fiscal year 1994, 21 counties did not impose the local option tax. Of the 35 counties that did, only 14 used all or a portion of the revenue for District Court funding. (See Figure 6.7.)

* Recent U.S. Department of Labor decisions and state Attorney General opinions raise the specter of applying the Fair Labor Standards Act of 1938 (FLSA) to court reporters. If court reporters in Montana are found to be subject to the FLSA, the current policy regarding court reporters may need modification. The Montana Association of Court Reporters is joining a national effort to seek an FLSA exemption.

** Mr. Morris testified that the local option tax, enacted in 1987, was instrumental in stopping the financial hemorrhaging occurring in county District Court budgets, which was caused by the failure of the state to deliver the revenue promised under a 1981 District Court grant program. (See Minutes, March 24-25, pp. 7-9.) Also, Cascade County's use of the local option tax brought its District Court budget out of debt.

FIGURE 6.7
1993-94 (FY 94) LOCAL OPTION VEHICLE FEE

COUNTY	NO	YES	WHAT USED FOR
BEAVERHEAD		.5	RD DEPT EQUIPMENT
BIG HORN	NO		
BLAINE	NO		
BROADWATER		.5	GENERAL FUND/DIST COURT
CARBON		.5	GENERAL FUND
CARTER		.5	GENERAL FUND, DIST COURT/RD & CITY
CASCADE		.5	63% DIST COURT/35.46% CITY/1.54% OTHER INCORP TOWNS
CHOUTEAU		.5	GENERAL FUND
CUSTER		.5	DIST COURT
DANIELS		.5	DIST COURT
DAWSON		.4	GENERAL GOVERNMENT
DEER LODGE	NO		
FALLON	NO		
FERGUS		.5	44% GENERAL/29% DIST COURT/27% POOR
FLATHEAD	NO		
GALLATIN		.4	DIST COURTS/RD/LIBRARIES
GARFIELD		.5	GENERAL GOVERNMENT
GLACIER	NO		
GOLDEN VALLEY	NO		
GRANITE	NO		
HILL		.5	10% RD FUND/45% DIST COURT/45% GENE FUND
JEFFERSON		.5	GENERAL FUND
JUDITH BASIN		.5	GENERAL FUND
LAKE		.5	RD/CO PLANNING/GENERAL FUND
LEWIS & CLARK		.5	DIST COURT/COUNTY ATTORNEY
LIBERTY		.5	GENERAL FUND
LINCOLN		.5	70% DIST COURT/\$30% GENERAL FUND
MADISON	NO		
MCCONE	NO		
MEAGHER		.5	GENERAL FUND
MINERAL		.5	GENERAL GOVERNMENT
MISSOULA		.5	85% DIST COURT/
MUSSELSHELL		.5	DIST COURT
PARK	NO		
PETROLEUM	NO		
PHILLIPS	NO		
PONDERA		.5	70% DIST COURT/30% GENERAL FUND
POWDER RIVER		.5	DIST COURT
POWELL		.5	GENERAL FUND/CITY/WEED/COMP INS/SENIOR CITIES/H-
PRAIRIE		.5	GENERAL FUND
RAVALLI		.5	DIST COURT/POOR FUND/GENERAL FUND/CITIES
RICHLAND	NO		
ROOSEVELT		.5	GENERAL FUND - LAW ENFORCEMENT
ROSEBUD	NO		
SANDERS		.5	GENERAL FUND (DIST COURT)
SHERIDAN	NO		
SILVER BOW		.5	DIST COURT
STILLWATER		.4	GENERAL GOVERNMENT
SWEET GRASS		.5	GENERAL FUND
TETON		.5	GENERAL FUND
TOOLE	NO		
TREASURE		.5	GENERAL FUND
VALLEY	NO		
WHEATLAND	NO		
WIBAUX	NO		
YELLOWSTONE	NO		

Source: Montana Association of Counties

Recognizing the objections of MACo and the League to the mandatory diversion of the local option tax revenue to the District Courts, the JUFC settled on recommending only a 0.1% mandatory light vehicle tax with a corresponding reduction from 0.5% to 0.4% in the local option tax rate. A 0.1% light vehicle tax would raise about \$2.6 million, based on 1995 revenue projections of the Office of the Legislative Fiscal Analyst. In conjunction, the JUFC agreed that counties should be required to utilize revenue from the remaining 0.4% local option tax first for District Court funding needs, if any. This was supported by MACo.⁵²

Preliminary Recommendation: The JUFC's preliminary recommendation was for the state to assume total funding responsibility for public defenders and court reporters effective July 1, 1995, and for juvenile probation officers by July 1, 1997. State assumption of public defender and court reporter costs was to be funded from a 0.1% light vehicle tax (reducing the 0.5% local option tax to 0.4%). A funding source for juvenile probation officers was to be identified in the future, hopefully through a long-range planning committee within the Judiciary. (See Recommendation #6: Judicial Advisory Council and Regional Conferences.)⁵³

Public Hearing: The JUFC's preliminary recommendation was supported at the public hearing by the State Bar of Montana, some County Commissioners, and some District Court Judges, but strongly opposed by court reporters, public defenders, and juvenile probation officers. MACo and the League also expressed opposition to the recommendation based on the use of the 0.1% light vehicle tax to fund the proposed state assumptions and the loss of local revenue caused by reducing the 0.5% local option tax to 0.4%. *

* Both MACo and the League expressed the belief that local revenue sources should not be used to fund state responsibilities. Both felt that the 0.5% local option tax should remain optional and be used for local programs at the discretion of local officials. Alec Hanson, Executive Secretary of the League, said that cities could lose up to \$700,000 in revenue if the state reduced the 0.5% local option tax to 0.4%.

Objections raised by public defenders hinged not on state funding per se, but on concerns that hiring, firing, and staffing decisions should remain at the local level.⁵⁴ Public defenders from Missoula and Yellowstone Counties noted that state assumption would not cover the existing services provided for misdemeanor adult offenses, juveniles, sanity hearings, or cases of abuse or neglect. These programs, developed and administered locally, have been successful in efficiently managing large caseloads. Missoula's County Commissioners strongly supported the current system for the public defender.

Objections raised by the Montana Association of Court Reporters centered on concerns about losing transcript fees in exchange for becoming salaried state Judicial Branch employees.*⁵⁵

Commission member Judge John W. Larson and his court reporter, Cereese Parker, demonstrated the state of the art computerized trial transcript system purchased privately by the Missoula court reporters. He explained that the system was the first one implemented in the state and was very helpful in both judge and jury trials.

District Judge Thomas McKittrick strongly objected to making court reporters state employees. He noted personal investments in excess of \$100,000 by court reporters in his county. He felt that the judiciary needs to undertake efforts to remain an independent branch of government. Having control of a court reporter is essential to keeping the court current.

* In addition to an annual salary of \$23,000 to \$30,000, (some counties contract for court reporters for lesser amounts, i.e., Ravalli and Flathead Counties) court reporters are paid \$2 per page for an original transcript, 50 cents per page for the first copy, and 25 cents per page for each additional copy (see section 3-5-604, MCA). Court reporters argued that the fees were legitimate and necessary compensation for the personal expenses incurred in becoming trained and licensed and purchasing their equipment (which costs about \$12,000 initially and \$700 a year to maintain) and for the scoping, editing, proofing, and printing services required to prepare transcripts (which together could amount to between \$2.80 and \$4.50 per transcript page).

Juvenile probation officers' objections were similar to the objections raised by the public defenders. The probation officers argued that they should remain local judicial appointees rather than state employees and that state assumption would create a new bureaucracy and subject juvenile probation programs to state budget cuts.⁵⁶ Commission member Judge Larson stated that having juvenile probation officers attached to the Judicial Branch was essential in juvenile cases because of the need to work with the juvenile in the community.

Phillips County Commissioner Carol Kienenberger and Lewis and Clark County Commissioner Blake Wordal both expressed support for utilization of 0.1% of the 0.5% local option tax as a funding source.⁵⁷

Commissioner Wordal's comments were reflective of many of the concerns that the JUFC was trying to address in its preliminary recommendation. In a letter to the JUFC submitted after the hearing, Commissioner Wordal wrote:

We also support the recommendation . . . provided that the recommendation remains tied to state assumption of the costs for court reporters and public defenders. . . . we see the issue as one of equity. In our judicial district, Lewis and Clark County imposes the local option vehicle tax simply to meet the ongoing court operational expenses. Broadwater County does not impose the tax because their share of the costs do not require it. Lewis and Clark County pays the costs of court reporters salaries and public defenders, Broadwater County does not. The costs for our judicial district are greater than most other districts because of the state requirements for filing actions against the state rest in our judicial district, even though those actions have statewide application.⁵⁸

On the subject of court reporter salaries, Mr. Wordal's statements also reflected the general sentiments that the JUFC heard from other County Commissioners and from Clerks of District Courts:

Regarding court reporters' salaries, we deeply resent the current statutory requirements, not because these individuals are not worthy of the amounts established by law which they are paid. Rather, statutory salary levels ignore both existing salary ranges for county employees and the county's ability to pay them. In our county, we have many employees who work just as hard or more so, who hold more dangerous and important responsibilities, who have more education and experience and who do not earn even close to the amount mandated for court reporters. In addition, those employees do not enjoy the outside income afforded court reporters.⁵⁹

Developing a Final Recommendation: Based on the testimony, the JUFC reconsidered its preliminary recommendation. Instead of a 100% state assumption of costs, the JUFC agreed to pursue a cost-sharing program under which the state would pay for up to 50% of the cost in civil cases for court reporter salaries, juvenile probation (office and staff expenses), indigent defense, and, as a new addition, psychiatric evaluation, detention, and treatment.* The JUFC felt that a cost-sharing program would allow counties to retain decisionmaking authority; help equalize the allocation of resources through the use of a mandatory 0.1 % light vehicle tax, which all counties would impose; and provide state funding in the

* Psychiatric expenses in civil cases were included because the JUFC felt that if the state was not going to assume 100% of the costs of the other expenses, there would be money remaining to help fund an additional expense. Psychiatric expenses had surfaced as a significant and uncontrollable District Court expenses incurred by counties.

area in which it is needed most without creating a new bureaucracy.*⁶⁰

Survey of Expenses: To arrive at a reasonable estimate of the costs of a 50/50 program, the JUFC surveyed each county. Figure 6.8 presents the survey findings. In conducting the survey, however, the JUFC noted that each county's budgeting process is different and that the figures reported could only be considered "ballpark" at best. (See Recommendation #12.)

Survey data showed that the potential \$2.6 million raised annually by the 0.1% light vehicle tax would be about \$600,000 to \$700,000 short of the required funding.

In reviewing how to reduce the total cost, the JUFC concluded that psychiatric evaluation, detention, and treatment during civil commitment proceedings was truly and entirely a state responsibility and should not be included in a cost-sharing program. This conclusion followed testimony by Mr. Brent Brooks, Deputy Yellowstone County Attorney, who described how a county must often pay for psychiatric hospitalization, evaluation, and treatment of indigent mentally ill who "show up" but are not county residents.⁶¹ (See Recommendation #3.)

* Mr. Pat Chenovick, Supreme Court Administrator, told the JUFC that his office would need no more than an additional one-half to one full-time equivalent position to administer the program.

FIGURE 6.8
SURVEY OF COUNTIES
ACTUAL COURT EXPENSES: FY 93 AND FY 94
* means data not available

COUNTY	Psychiatric Evaluations		Indigent Representation		Juvenile Probation		Court Reporters'	
	FY1993	FY1994	FY1993	FY1994	FY1993	FY1994	FY1993	FY1994
BEAVERHEAD	\$470	\$2,193	\$2,671	\$4,941	\$32,918	\$22,196	\$11,699	\$11,548
BIG HORN	\$1,325	\$2,182	\$44,768	\$47,008	\$30,549	\$31,563	\$7,160	\$7,078
BLAINE	\$1,252	\$0	\$5,768	\$10,822	\$39,231	\$43,023	\$22,800	\$18,815
BROADWATER	\$0	\$0	\$9,965	\$5,657	\$10,280	\$11,000	\$3,400	\$4,400
CARBON	\$9,779	\$4,188	\$8,384	\$6,244	\$569	\$2,485	\$5,850	\$5,625
CARTER	\$0	\$0	\$0	\$0	\$2,738	\$2,747	\$1,430	\$2,201
CASCADE	\$7,382	\$43,024	\$69,817	\$75,608	\$669,337	\$787,441	\$81,714	\$71,967
CHOUTEAU	\$0	\$0	\$0	\$0	\$5,051	\$608	\$40	\$0
CUSTER	\$999	\$6,593	\$21,832	\$24,855	\$55,067	\$57,388	\$26,836	\$34,703
DANIELS	\$0	\$559	\$135	\$0	\$10,660	\$72,774	\$778	\$1,792
DAWSON	\$1,200	\$5,492	\$2,072	\$3,230	\$49,230	\$45,517	\$13,220	\$16,632
DEERLODGE	\$0	\$0	*	*	\$77,803	\$68,601	\$27,259	\$28,000
FALLON	\$3,100	\$525	\$22,591	\$10,367	\$18,775	\$16,068	\$4,074	\$4,416
FERGUS	\$0	\$0	\$26,555	\$48,796	\$71,541	\$76,719	\$17,500	\$18,200
FLATHEAD	\$66,628	\$97,527	\$45,193	\$43,973	\$298,391	\$354,827	\$51,520	\$44,331
GALLATIN	\$45,463	\$45,033	\$32,940	\$36,210	\$121,004	\$154,523	\$56,250	\$57,190
GARFIELD	\$0	\$0	\$467	\$0	\$2,992	\$2,924	\$1,330	\$2,292
GLACIER	\$1,725	\$0	\$5,704	\$4,978	\$24,138	\$20,269	\$9,058	\$8,358
GOLDEN VALLEY	\$0	\$840	\$3,099	\$8,356	\$164	\$472	\$1,843	\$2,117
GRANITE	\$2,450	\$4,226	\$7,200	\$5,435	\$6,375	\$6,146	\$3,888	\$3,128
HILL	\$2,454	\$125	\$22,832	\$21,329	\$0	\$0	*	*
JEFFERSON	\$0	\$643	\$2,530	\$2,300	\$36,032	\$49,936	\$11,480	\$13,440
JUDITH BASIN	\$0	\$0	\$2,400	\$1,163	\$84	\$151	\$2,301	\$3,077
LAKE	\$822	\$21,221	\$21,058	\$15,826	\$86,775	\$109,757	\$14,688	\$15,016
LEWIS&CLARK	\$3,992	\$10,334	\$35,355	\$57,232	\$211,420	\$246,187	\$68,660	\$70,280
LIBERTY	\$0	\$0	\$0	\$0	\$1,624	\$912	\$1,376	\$1,805
LINCOLN	\$2,500	\$1,880	\$35,960	\$47,865	\$161,649	\$197,197	\$18,600	\$17,400
MADISON	\$0	\$344	\$12,582	\$9,624	\$28,966	\$26,582	\$6,268	\$7,839
MCCONE	\$810	\$0	\$1,156	\$841	\$7,836	\$7,885	\$3,732	\$5,027
MEAGHER	\$0	\$0	\$3,357	\$2,921	\$5,376	\$9,934	*	*
MINERAL	\$12,781	\$600	\$7,241	\$1,401	\$1,550	\$1,821	*	*
MISSOULA	\$284,785	\$297,813	\$146,087	\$149,632	*	*	*	*
MUSSELSHELL	\$2,111	\$129	\$15,023	\$12,498	\$29,271	\$24,583	\$11,263	\$13,423
PARK	\$20,293	\$19,893	\$11,061	\$11,309	\$39,072	\$45,927	\$13,308	\$12,770
PETROLEUM	\$0	\$0	\$0	\$0	\$2,786	\$3,096	\$0	\$0
PHILLIPS	\$2,158	\$212	\$3,575	\$9,692	\$18,682	\$33,626	\$7,276	\$6,585
PONDERA	*	*	*	*	*	*	*	*
POWDER R.	*	*	*	*	*	*	*	*
POWELL	\$0	\$50	\$1,912	\$3,275	\$21,059	\$24,631	*	*
PRAIRIE	\$0	\$0	\$52	\$52	\$2,764	\$3,012	\$2,527	\$2,469
RAVALLI	\$12,921	\$1,835	\$34,615	\$33,520	\$87,671	\$100,152	\$5,716	\$323
RICHLAND	\$5,810	\$5,936	\$25,600	\$41,411	\$42,708	\$42,871	\$24,081	\$28,645
ROOSEVELT	\$375	\$1,289	\$3,279	\$6,541	\$11,918	\$14,424	\$7,930	\$8,730
ROSEBUD	\$8,434	\$10,060	\$5,331	\$7,312	\$53,584	\$56,375	\$16,276	\$20,905
SANDERS	\$5,207	\$10,462	\$17,410	\$8,956	\$34,962	\$45,945	\$5,712	\$6,200
SHERIDAN	\$0	\$4,936	\$170	\$0	\$13,263	\$15,301	\$5,556	\$5,770
SILVERBOW	\$20,267	\$28,036	\$69,434	\$72,891	\$232,134	\$267,676	\$51,600	\$48,600
STILLWATER	\$0	\$2,355	\$11,484	\$4,261	\$27,544	\$26,028	\$8,737	\$12,695
SWEET GRASS	\$467	*	\$8,872	\$4,300	\$9,009	\$8,479	\$4,236	\$3,611
TETON	\$888	\$0	\$2,745	\$2,232	\$18,435	\$11,446	\$2,000	\$2,000
TOOLE	\$2,512	\$7,793	\$2,997	\$2,488	\$0	\$0	\$40	\$0
TREASURE	\$0	\$0	\$607	\$0	\$2,901	\$2,020	\$947	\$838
VALLEY	\$0	\$0	\$3,105	\$0	\$38,829	\$47,330	\$2,420	\$2,673
WHEATLAND	\$867	\$0	\$0	\$1,967	\$5,301	\$2,957	\$5,191	\$5,191
WIBAUX	\$0	\$277	\$0	\$183	\$5,027	\$5,563	\$0	\$0
YELLOWSTONE	*	\$73,336	\$168,160	\$213,408	\$589,554	\$649,059	\$26,000	\$26,000
TOTALS	\$532,227	\$711,941	\$985,151	\$1,082,910	\$3,354,599	\$3,858,154	\$675,570	\$684,105
GRAND TOTAL 93	\$5,547,547		50% OF GT	\$2,773,774				
GRAND TOTAL 94	\$6,337,110		50% OF GT	\$3,168,555				

Psychiatric Evaluations: Mental evaluations and detentions associated with civil sanity proceedings.

Indigent Representation: Representation of indigent persons in juvenile, domestic and misdemeanor cases

Juvenile Probation: All costs of operating and staffing juvenile probation offices

Court Reporter Salaries: Percent of Court Reporter Salaries not reimbursed by the Criminal Reimbursement Program.

SOURCE: Mail survey conducted by the Montana Legislative Council, August 28 through September 14, 1994

Final Action: The JUFC unanimously voted to approve LC 67, draft legislation that establishes a 50/50 cost-sharing program in civil cases. The legislation encompasses court reporter salaries, indigent representation, and juvenile probation and provides funding for the program from a 0.1% light vehicle tax. In conjunction, LC 67 provides that the 0.5% local option tax is reduced to 0.4%, that the sunset on the disposition of the tax revenue to counties and cities is repealed, and that language is added requiring counties to use the local option tax revenue to first fund District Court needs.⁶²

In addition to the above provisions, LC 67 also:

- eliminates the requirement that a county must hold a hearing each year to continue to impose the local option light vehicle tax;*
- raises by \$10 a District Court fee paid for court reporter salaries and provides that the \$10 is forwarded to the state for the 50/50 cost-sharing program; and
- changes the date used to determine the number of civil and criminal case filings when setting court reporter salaries from January 1 to July 1 to conform to fiscal year budgeting.

* This amendment was requested by MACo at the JUFC's July 13, 1994, public hearing. MACo cited the difficulty that County Commissioners encounter in having to conduct a hearing on the local option tax each year and the potentially negative effect on District Court funding.

Recommendation #2: Continue to Explore Long-Term Solutions

The Legislature should continue to explore long-term funding solutions that ensure the sufficient, stable, and equitable funding of Montana's District Courts, including the potential for total state assumption of District Court funding. Furthermore, if the Montana Supreme Court establishes an advisory council (see Recommendation #6), the advisory council should explore court funding needs and should advise the Supreme Court and the Legislature on ways to allocate resources in the most efficient and effective manner possible.

Issue Summary

Whether the state or the counties, or both, should be responsible for funding District Courts is a question facing many states, including Montana. An increasing number of states have opted for total state financing because local governments have not been able to provide equitable or stable court funding.

Although measures can be taken to assist counties in addressing immediate District Court budget shortfalls (i.e., the use of a 0.1% light vehicle tax as proposed under Recommendation #1), the fundamental issues of tax equity and the long-term stability and sufficiency of District Court funding remain.

Objectives

The objectives of Recommendation #2 are to:

- avoid future District Court funding shortfalls;
- address the inequities of a funding system based on local property taxes so that the District Court funding burden is shared equitably statewide; and

- ensure that District Court funding is stable and sufficient so that quality judicial services are provided in all judicial districts.

Testimony and Research

Most of the testimony and research that were key to the JUFC's adoption of this recommendation were summarized under Recommendation #1. However, some additional items provide further background with regard to the long-term funding issues.

Constitutionality of Current Funding Scheme: In a 1990 memorandum to the District Court Funding Committee of the State Bar of Montana, Attorney James H. Goetz and District Judges Thomas Olson and Ted Lympus outlined an argument that just as courts have ruled that school funding based on county property taxes is unconstitutional, so too, is the current method of funding the District Courts.

A portion of the memorandum states:

It appears that much of the equal protection rationale of Helena Elementary applies to the district court funding question. There are arguably at least two groups of people who suffer adverse consequences because of the discrimination which results from district court funding reliance on disparate local revenue sources: (1) those, such as civil litigants in Cascade County, whose access to the courts is denied, or at least postponed, because of funding difficulties; and (2) those taxpayers who must pay relatively larger percentages of their property wealth because they happen to reside in "poor" counties. There is potentially a third class consisting of those who are involved in courts which are not funded adequately,

although not subject to closure (i.e, courts with inadequate staffing levels).⁶³

The memorandum goes on to cite Article II, section 16, of the Montana Constitution as the best argument for scrutinizing the fairness of the current District Court funding scheme. That section reads, in part:

Courts of justice shall be open to every person, and speedy remedy afforded for every injury of person, property, or character. . . . Right and justice shall be administered without sale, denial, or delay.

Mr. Gordon Morris, MACo: In testifying on the various funding options being considered by the JUFC, Mr. Morris expressed his opinion that stable and equitable funding for the District Courts could not be accomplished without significant tax reform. Mr. Morris asked the JUFC not to make permanent what he feels are temporary funding arrangements. Ideally, he said, the long-term solution would be to decouple the courts from vehicle and property taxes and to either create a new revenue stream, or tap into an existing, but broader, revenue stream, such as the income tax.⁶⁴

Commission Discussion and Action

As the JUFC discussed state funding options in the context of four model systems, the JUFC agreed that its philosophical objective was for the state to assume ultimate responsibility for District Court funding. However, developing a means of providing for state assumption was recognized as a task beyond the time and resources available to the JUFC.⁶⁵

A motion was passed unanimously to recommend that the Legislature continue to explore ways to ensure the sufficient, stable, and equitable

funding of District Courts and that the judicial advisory council (see Recommendation #6) also explore court funding issues.⁶⁶

Recommendation #3: State Funding for Psychiatric Expenses

The Legislature should adopt LC 130 to fund from the state general fund the cost of hospitalization, evaluation, and treatment of the mentally ill during District Court civil involuntary commitment proceedings. Furthermore, the Legislature should review and revise Title 53, chapter 21, MCA, to address the procedural inequities in assigning responsibility for persons requiring psychiatric evaluation and treatment.

Issue Summary

A significant portion of District Court expenses is related to the cost of hospitalization, evaluation, and treatment of seriously mentally ill people during civil involuntary commitment proceedings. Current statutes provide that the county of the person's residence must pay for all related expenses.⁶⁷

Counties argue, however, that many seriously mentally ill persons are transient or are inappropriately considered to be county residents. The issue is whether the state or the county should be responsible for the costs of civil involuntary commitment proceedings for these persons. Also at issue is the workability of current statutes governing the procedures and services for the mentally ill.

Objective

The objective of this recommendation is to place the burden of financing the hospitalization, evaluation, and treatment of seriously mentally ill persons on the state, rather than each county.

Testimony and Research

Mr. Brent Brooks, Deputy Yellowstone County Attorney: At the JUFC's final meeting, on September 15, 1994, Mr. Brooks testified that the Yellowstone County Attorney's Office is experiencing increasing problems with the civil commitment code (i.e., Title 53, chapter 21, MCA). He said that local government has no control over costs or procedures regarding the hospitalization of the seriously mentally ill. Mr. Brooks contended that this was a state problem that the Legislature should address.

Mr. Brooks explained that the premature release of patients from the Montana State Hospital creates a "revolving door", resulting in the patient's recommitment at the county's expense. In Yellowstone County, the average hospital stay during a civil involuntary commitment proceeding is from 2 to 4 weeks. The average cost per day at the Deaconess Psychiatric Center is about \$1,200. In an effort to gain some control over the costs, Yellowstone County has refused to pay its fiscal year 1994 bills for hospitalization during civil involuntary commitment proceedings, pending negotiations with the Deaconess Psychiatric Center to implement a cost containment program.

Mr. Brooks said that the fundamental problem is that Yellowstone County must cope with nonresident mentally ill persons coming to Billings for treatment. He said that the involuntary commitment statutes relating to how responsibility for psychiatric care and evaluation is assigned are out of date and need to be amended.

Responding to JUFC questions about whether psychiatric expenses should be part of the proposed 50/50 cost-sharing program (see Recommendation #1), Mr. Brooks said that the state should be entirely responsible for funding psychiatric expenses.⁶⁸

Commission Discussion and Action

Commission discussion on this issue revolved around determining what District Court expenses should be included in the JUFC's 50/50 cost-sharing proposal outlined under Recommendation #1. The \$2.6 million in revenue available from the proposed 0.1% light vehicle tax would be insufficient to cover court reporter salaries and indigent defense, juvenile probation, and psychiatric expenses in civil cases, and the JUFC needed to either eliminate some expenses or provide for a cost-sharing arrangement of less than 50/50.

The JUFC agreed that the care and evaluation of the mentally ill transcended county boundaries; therefore, psychiatric expenses should not be part of a cost-sharing program because the state should assume total funding responsibility. Furthermore, the JUFC agreed with Mr. Brooks's opinion that Title 53, chapter 21, MCA, governing commitment procedures for the mentally ill, was outdated and should be reviewed and revised, and so the JUFC included this in Recommendation #3.

The JUFC voted unanimously to adopt Recommendation #3, which includes LC 130.⁶⁹

Recommendation #4: Reimburse Postconviction Relief Expenses

The Legislature should adopt LC 66 to provide that postconviction relief expenses are reimbursable under the current District Court Criminal Reimbursement Program, which will not require additional funding.

Issue Summary

Current statutes (Title 46, chapters 21 and 22) provide that a person convicted and sentenced for a criminal offense may file a petition challenging the validity of the court's judgment, provided that the petitioner raises issues that were not raised on regular appeal. Postconviction relief proceedings involve expenses for evidentiary hearings and court-appointed counsel. The District Court Criminal Reimbursement Program, funded under section 3-5-901, MCA, does not reimburse counties for court expenses related to postconviction relief proceedings.

Objective

The objective of this recommendation is to reimburse postconviction expenses as a criminal proceeding with the funds currently available under the District Court Criminal Reimbursement Program.

Testimony and Research

Ms. Betsy Griffing, Assistant Attorney General: Ms. Griffing provided the JUFC with background on the issue of postconviction relief expenses. She explained that although exact costs were nearly impossible to fix, she and Patrick Chenovick, Supreme Court Administrator, felt that the costs could be assumed within the current level of funding available under the District Court Criminal Reimbursement Program.* She suggested that the JUFC recommend amendments to section 3-5-901, MCA, to provide that postconviction relief proceedings be considered a criminal case expense under the reimbursement program.⁷⁰

* Mr. Chenovick later estimated that postconviction relief expenses would probably not exceed \$15,000 per year, based on data from the past several years.

Commission Discussion and Action

At its August 22, 1994, meeting, the JUFC unanimously approved the bill draft (LC 66) to implement Ms. Griffing's suggestions.⁷¹

Recommendation #5: Pursue Grant Funding

The Judicial Branch and each county and court individually should actively seek funds being made available to state courts through the federal crime control bill and other court grant programs.

Issue Summary

Several grant programs are available for specific aspects of court operations, such as child support enforcement, juvenile justice projects, and court information technology programs. Accessing funds available through grant programs may help keep courts operating as counties struggle to meet current and increasing court costs.

Objective

The objective of Recommendation #5 is to heighten the awareness of courts, counties, judges, and the Judiciary about special funds being made available for court operations through various grant programs.

Testimony and Research

The JUFC did not specifically research this issue. However, in the course of JUFC discussions, Supreme Court Administrator Patrick Chenovick acknowledged that grant programs are available and that the Office of

Court Administrator has been applying for certain grants for technical assistance to improve court operations.

Commission member Judge John W. Larson explained to the JUFC that the recently enacted federal crime bill and other grant programs make funds available to state courts in such areas as Youth Courts and the education and training of judges.⁷² Commission Member Senator Eleanor Vaughn also brought out the availability of grants available to assist local justice agencies, including the public defenders and courts from the Omnibus Crime Control and Safe Streets Act of 1968 and the Comprehensive Crime Control Act of 1990.

Commission Discussion and Action

The JUFC briefly discussed whether a central clearinghouse for information on grant programs should be established within the Judiciary, e.g., through the Office of Court Administrator. However, the JUFC agreed not to specifically recommend the assignment of responsibility for applying for court grants. This decision was based on consensus that the Office of Court Administrator is already doing the best it can in applying for grants, given existing staff and resources, and that most grants are program-specific, which makes it more appropriate for individual courts to directly apply for the grants. The JUFC unanimously voted to adopt Recommendation #5.⁷³

CHAPTER 7

COURT ADMINISTRATION RECOMMENDATIONS

Recommendation #6: Judicial Advisory Council and Regional Conferences

The Montana Supreme Court should establish a judicial advisory council to conduct long-range strategic planning for the Judicial Branch. Among the issues that the advisory council should examine are total state funding, court unification options, judicial compensation (which remains among the lowest in the nation), and court reporter employment issues.

Membership on the advisory council should include one representative each appointed by: the Supreme Court, District Court Judges, the Magistrates' Association, Clerks of District Courts, the Court Reporters' Association, the State Bar of Montana, the Montana Association of Counties, the Montana League of Cities and Towns, the Sheriffs' and Peace Officers' Association, the Governor, the Senate, and the House of Representatives.

In conjunction, the Supreme Court should provide for regional conferences to enhance communication between judicial officials and courts at all levels.

The JUFC endorses the efforts of the Montana Judges' Association to address these issues within the Judicial Branch.

Issue Summary

Each of Montana's courts is administered as a separate entity. Judges do not routinely communicate with each other about common administrative problems or other judicial issues. Lines of communication between court levels, e.g., between JP Courts and District Courts and between the District Courts and the Supreme Court, are limited. Finally, the Judiciary has no long-term strategic planning or advisory body to address Judicial Branch issues or to help guide the courts into the future.

To address similar issues, other states have turned to court unification and administrative reform to enhance communication and promote uniformity. Many states use professional court administrators to relieve judges of administrative tasks. (See Chapter 4.) Other states use Chief Administrative Judges. Although approaches vary, the key issues are constant: communication, administrative efficiency, and greater uniformity.

Objectives

The objectives of Recommendation #6 are to:

- strengthen the Judiciary as a separate branch of government and provide for the Judiciary to speak with a unified voice;
- promote regional coordination to address common administrative problems;
- provide a framework for resolving problems on a regional and statewide basis;
- improve communication; and
- lay the foundation for an effective long-range planning process within the Judiciary.

Testimony and Research

Testimony:

State Bar of Montana: In written testimony, State Bar of Montana President Robert Carlson conveyed the State Bar's concerns about Montana's fragmented delivery system:

While Montana has adopted some elements of a unified system there is still fragmentation in the delivery of services. There is overlapping jurisdiction among the district court and courts of limited jurisdiction for certain types of cases. Although Montana has adopted uniform district court rules, there are still different local rules, sometimes among different compartments of the same district. Additionally, courts in Montana are "compartmentalized" each operating autonomously in handling matters within its particular jurisdiction. A district judge in a single district must handle all of the matters filed in that district court. . . .

There is also an inequitable distribution of workload, with some judge's dockets overloaded. This results in delay and difficulty in maintaining quality work product.⁷⁴

Montana Clerk of District Court Association: Clerks of District Courts expressed concern about centralizing court administration and fears of a new Helena bureaucracy:

We feel that centralizing the court system will create more bureaucracy during a time when government is trying to make itself lean. Additionally, we question the wisdom of asking the state to assume the financial responsibilities of managing all court operations when the trend of recent legislatures is to shift fiscal burdens back to county and local governments. . . .

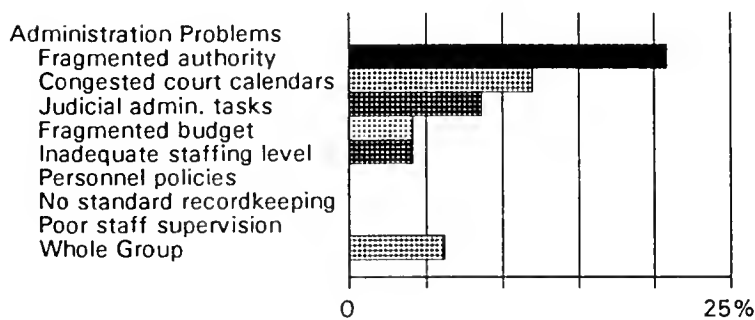
Additionally, we strongly believe in this state's tradition of grass roots participation within our judicial system. We feel that centralization will further remove average citizens

from a legal system which, many feel, has already alienated them.⁷⁵

Problem Identification Survey:

Court administration did not emerge in the JUFC's problem identification survey as a significant problem area. However, District Court Judges saw court administration as more of a problem than did county officials. District Court Judges said that fragmented authority, congested court calendars, and too many administrative tasks for judges were areas of most concern. (See Figure 7.1.)⁷⁶

Figure 7.1



Note: % Best 1 on 193 replies.

Show what percentage of District Judges rated each administrative area as a "significant problem" in their court.

Commission Discussion

In its initial deliberations, the JUFC considered the option of using professional court administrators deployed regionally. However, questions about who would hire the administrators, who would pay them, and what their duties would be, as well as concerns about a new state bureaucracy, led the JUFC to abandon this option.

The JUFC focused on two primary concerns: (1) the lack of communication and coordination among judicial officials and between court levels; and (2) the lack of a strategic planning body for the Judiciary.

To improve communication, the JUFC envisioned regional conferences chaired by a Supreme Court Justice. To provide for long-range planning and the ability to follow up on regional issues with statewide implications, the JUFC envisioned a judicial advisory council.⁷⁷ In discussing the membership of the judicial council, the JUFC agreed that all of those who may be directly affected by judicial administration issues should be represented on the judicial council.⁷⁸

The idea for the judicial council was originally advanced by the State Bar of Montana's District Court Funding Committee. JUFC member John Stephenson provided the JUFC with an extract of the Committee's 1992 proposal to the Supreme Court to establish a judicial council. Mr. Stephenson also provided information about Utah's constitutionally established judicial council. The JUFC agreed that there were too many members and subcommittees on Utah's judicial council. However, this information helped solidify the JUFC's concept of a basic judicial advisory council in Montana.⁷⁹

The JUFC developed a preliminary recommendation and two draft bills (one providing statutory language and one a joint resolution) to provide for

a judicial advisory council, regional conferences, and a Supreme Court Justice to be assigned as a liaison or conference chairperson within each region.

However, at the JUFC's July 13, 1994, public hearing, Supreme Court Chief Justice Jean A. Turnage raised concerns about the amount of time a Justice would have to dedicate to regional administration issues, given the Justices' already heavy workloads.⁸⁰ Supreme Court Justice Karla Gray also raised concerns about the Justices' workloads and about legislative involvement in Judicial Branch issues.⁸¹

At its July 15, 1994, statewide conference, the Montana Judges' Association discussed the JUFC's proposed legislation to provide for regional conferences and a judicial advisory council. The Association decided to appoint a committee, headed by Justice Gray, to address judicial communication issues and the concept of a judicial council. As a result, the JUFC agreed to suspend formal consideration of its bill drafts, to endorse the efforts of Justice Gray's committee, and to request that the JUFC be kept informed about the committee's progress. Nevertheless, the JUFC reiterated its commitment to the concepts and principles contained in its bill drafts, its firm belief that lines of communication between judges and courts at all levels should be enhanced, and its recommendation that a judicial advisory council be established to respond to Judicial Branch issues and to conduct long-range planning.⁸²

Recommendation #7: Retain a Seven-Member Supreme Court

The Legislature should adopt LC 62 to retain a seven-member Supreme Court and to repeal the sunset on section 3-2-101, MCA, providing for six rather than four Justices. The Governor's Task Force to Renew Government also studied this issue and recommends retention of a seven-member Supreme Court.

Issue Summary

The Montana Constitution states that the "supreme court consists of one chief justice and four justices, but the legislature may increase the number of justices from four to six".⁸³

In 1979, the Legislature exercised this authority and increased the number of Justices from four to six to address the Supreme Court's increasing caseload. However, the Legislature placed a sunset on the enabling legislation so that, unless the sunset is repealed, the number of Justices will revert to four on January 6, 1997.⁸⁴

Objective

The objective of Recommendation #7 is to ensure that the Supreme Court is able to effectively handle its caseload and continue to issue quality opinions without unreasonable delay.

Testimony and Research

At the JUFC's July 13, 1994, public hearing, Supreme Court Justice James C. Nelson presented information related to the Supreme Court's workload. The annual number of Supreme Court cases rose from 561 to

659 between 1983 and 1993. In fiscal year 1993, the Supreme Court issued 437 opinions, or about 62 opinions per Justice.*⁸⁵

Assuming that a five-member Supreme Court would have to issue at least 437 opinions a year, based on fiscal year 1993 figures, each Justice would have to write about 87 opinions a year, which is a 40% increase in each Justice's workload.

Commission Discussion and Action

The JUFC developed its recommendation to retain a seven-member Supreme Court during group discussions on four model court systems. Two discussion groups debated structural, administrative, and funding changes at each court level, and both groups agreed that a seven-member Supreme Court was essential to managing the Supreme Court's workload.⁸⁶

Recommendation #8: District Court Judges Assigned by Chief Justice

The Legislature should adopt LC 63 amending sections 3-5-111 and 3-5-112, MCA, to provide that the Chief Justice, rather than the Governor, has the authority to temporarily assign a District Court Judge to hold court in another district if caseload or circumstances require and to eliminate the requirement that an interested person must first request the assignment.

Issue Summary

Current law provides that the Governor may temporarily assign a District Court Judge to hear cases in another district.⁸⁷ However, the Montana

* The Governor's Task Force to Renew Government reported that according to a University of Arkansas study, the average number of opinions expected of a competent appellate judge is 35 to 40 opinions a year. (See the Governor's Task Forces to Renew Government, Preliminary Recommendations, September 1994, pp. 9-10.)

Constitution states that the Supreme Court has "general supervisory control over all other courts".⁸⁸

Objective

The objective of Recommendation #8 is to bring statutory language in line with the constitution and to provide for the expeditious handling of District Court cases in the event that a District Court Judge is incapacitated or unable to handle the district's caseload.

Testimony

The issue of separation of powers and the authority of the Chief Justice versus the Governor was initially raised by Mr. Carl Baar, one of four guest speakers asked to discuss court unification issues with the JUFC. Mr. Baar told the JUFC that the laws (sections 3-5-111 and 3-5-112, MCA) were inconsistent with the principles of the independence of the Judiciary.⁸⁹

Commission Discussion and Action

The JUFC agreed that the language in sections 3-5-111 and 3-5-112, MCA, was simply old language that had never been "cleaned up". The JUFC further agreed that in keeping with the constitutional separation of powers, it is more appropriate for the Chief Justice, rather than the Governor, to assign a District Court Judge to another district if necessary. Finally, in the event that a District Court Judge is incapacitated and cannot request assistance, the Chief Justice should not have to wait for a request by an interested person before making a temporary assignment to handle the judge's caseload.*

* At the July public hearing on the JUFC's preliminary recommendations, no one opposed this recommendation.

The vote to approve the JUFC's recommendation (LC 63) was unanimous.⁹⁰

CHAPTER 8

COURT INFORMATION AND TECHNOLOGY RECOMMENDATIONS

Recommendation #9: Impose a User Surcharge for Court Automation

To fund court information and technology programs within the Judiciary, the Legislature should adopt LC 65 to impose a \$5 user surcharge on all filings in civil cases and upon conviction or forfeiture of bond or bail in criminal cases. The surcharge should apply in all courts of original jurisdiction and should be imposed in addition to existing fees.

Issue Summary

New technology is becoming available to enhance access to information and to improve communications. Courts, as much as any other public agency or private entity, find that the application of available technology is essential to allowing them to conduct routine business in a more effective and efficient way. Because of the decentralized nature of court administration in Montana and because of legislative budget cuts, statewide information, research, and communication capabilities have been limited. Yet, the ability to collect accurate and timely statewide statistics, provide access to legal research data bases, and enhance communications is essential to improving the state court system.

Objective

The objective of Recommendation #9 is to charge court users for the services that they receive and to use the revenue to make improvements to those services.

Testimony and Research

During the problem identification phase of the JUFC's study, Ms. Judith Meadows, State Law Librarian, offered the following testimony:

Only 5 judicial districts use online legal research systems to supplement or replace hard copy, and 2 of those do not have national database access. Two courts provide computer stations in their libraries so that the practicing bar can do research using their own passwords. . . .

Much is being written now about the new electronic superhighway of information. U.S. Supreme Court Cases, the Federal Register, and the Congressional Record will all be available through the Internet, at no cost to researchers, within the next year. These national legal titles will be followed by dozens more. Yet the possibilities offered for a virtual law library will be attainable only when the potential users are computer literate. They will need: 1) equipment they are comfortable using; 2) they must be provided effective and continuous training; and 3) the products they will use will have to be compatible with each other. Only the national legal publishers can control this third factor. However, we can and should do something about the first two elements to the solution of how we can provide better, faster, and cheaper access to legal information to Montana's district courts.⁹¹

The Office of Court Administrator's Court Automation Program: The Supreme Court, by order dated March 8, 1990, and revised April 5, 1994, established uniform information technology standards:

WHEREAS, the Montana Judiciary has adopted uniform automation standards for information management systems by order of this court dated March 8th 1990; and

WHEREAS, the successful development and support of software, hardware, and computer training for district and limited jurisdiction courts is only possible if court automation systems are coordinated and uniform; and

WHEREAS, the Supreme Court feels a strong responsibility to encourage the greatest possible uniformity and efficiency in the administration of justice; and

WHEREAS, the standards established in the prior order have been improved upon by technological developments in the information technology industry making some of the standards adopted by the March 8, 1990 order obsolete. It is essential that the Montana Judiciary adopt standards that incorporate new and available information technology; and

WHEREAS, Article VII, section 2 of the Montana Constitution vests the Supreme Court with general supervisory control of all courts in Montana and with authority to make rules governing procedure in courts in Montana. . . .⁹²

The Office of Court Administrator was, by this order, the established office to automate the 182 courts in Montana. This effort encompassed assessment of available technology for court automation, current equipment in the courts, and an available method, within accessible funding, to accomplish automation. In 1991, with a small appropriation from the Legislature, the Office was granted court funds to purchase equipment and software. The Office provides support regarding use and maintenance of the equipment. Currently, the Office supports more than

300 users on 17 different local area networks and numerous stand-alone workstations.

In addition to grant and support functions, the Office also developed a personal computer-based judicial case management system. This system helps track case files, manage fee collections, conduct automated jury selection, manage case citations, provide management statistics, and assist judges in time and caseload management. The system also allows courts to use spreadsheet technology; to use a word processing capability for court orders, minutes, and scheduling; and to fulfill other basic court management functions.

The use of information technology in the courts dates back to 1976 when the Legislature funded a statewide judicial information system (SJIS) to provide accurate and timely statistics on state court operations. However, during the January 1992 Special Session, the Legislature eliminated funding for SJIS operations. Consequently, the Office of Court Administrator must manually compile statistics from various court sources. Gathering statewide statistics is made even more difficult because each county and court has its own method of tracking and reporting caseloads and expenditures and for developing budgets.⁹³

During testimony before the JUFC, Court Administrator Patrick Chenovick previewed technology that could allow courts to access the Montana Code Annotated on CD-ROM, improve access to Supreme Court opinions, generate standard documents with greater efficiency, and improve interagency coordination. Mr. Chenovick also described two pilot projects that the Office is working on with the Department of Justice. One project involves having peace officers generate Notices to Appear on laptop computers in their patrol cars and then feeding the information directly to the courts of limited jurisdiction. The other project provides for the automated collection of fines on minor traffic offenses by using a credit

card.⁹⁴ This technology is in the future only if the Supreme Court can continue to fund statewide automation.

Funding for court automation projects terminates July 1, 1995.⁹⁵

Commission Discussion and Action

The recommendation to impose a \$5 surcharge was developed at the urging of Mr. Chenovick. He proposed the surcharge as an alternative to raising certain District Court fees by \$10 and using \$5 to fund state automation, which was the JUFC's preliminary recommendation. The JUFC acknowledged that raising only certain District Court fees would not raise enough revenue and that a broader application of a "user surcharge" was a more equitable and realistic approach.^{*96} The JUFC unanimously approved LC 66.⁹⁷

Recommendation #10: District Court Records Preservation Fund

The Legislature should adopt LC 64 to require counties to establish a District Court records, retention, preservation, and technology fund, to raise by \$5 certain District Court fees, and to provide that the \$5 be deposited into the fund for the preservation of District Court records.

Issue Summary

Clerks of District Courts must provide for the storage and preservation of District Court records, some dating back to 1880. However, counties have no specific budget for maintaining these court records.

* Based on an estimated 27,000 case filings in District Court annually, \$5 from each fee on each filing would only raise about \$135,000 a year. However, the user surcharge on all case filings in all courts is expected to raise about \$1 million annually.

Objective

The objective of Recommendation #10 is to provide the funds necessary for Clerks of District Courts to effectively maintain, store, and preserve District Court records, which will save time as well as resources currently expended on searches and restoration.

Testimony and Research

The key testimony provided to the JUFC was from Lori Maloney, JUFC member and Clerk of Court in Silver Bow County. Ms. Maloney explained to the JUFC that counties do not have a budget to help Clerks of District Courts maintain and store District Court records. She said that she has records dating back to 1880. Clerks of District Courts do not want to send money to the state and then have the state send money back. Rather, they think that there should be a county fund that is managed by the District Court Clerks and dedicated to records preservation at the local level.

Some JUFC members expressed concern that there not be a duplication of funding for the program and that records preservation be approached in a systematic and uniform way statewide.

Ms. Maloney assured the JUFC that Clerks of District Courts would work closely with the Office of Court Administrator. However, she reiterated that the District Court Clerks' needs are immediate.

After further discussion, the JUFC reached consensus on raising certain District Court fees by \$5 and providing that the revenue be deposited in a special county fund for records retention, preservation, and technology.*

* An estimate of how much revenue would be generated for each county under the proposal was not available.

The JUFC unanimously adopted LC 64, which generally clarifies the existing language of section 25-1-201, MCA,* and provides for the following changes:⁹⁸

- requires counties to establish a special records preservation fund to be administered directly by the Clerk of District Court;
- raises by \$5 District Court fees on: the commencement of each action, including a petition to dissolve a marriage; filing a complaint of intervention; filing a petition for legal separation; the appearance of each defendant or respondent; and filing a probate application;
- provides that \$5 from the above fees be deposited in the special county records preservation fund;
- raises by \$20 the fees for the transmission of records to another court or for the receiving of records from another court (there is no change in the current disposition of those fees); and
- requires that \$6.40 from the fee for a marriage license or a declaration of marriage be deposited for District Court funding, rather than to the county general fund.

* In clarifying the language of section 25-1-201, MCA, on District Court fees, JUFC staff noted that although the original disposition of most of the fees was 32% to the counties and 68% to the Judges' Retirement System (JRS), numerous exceptions have resulted in counties retaining a larger portion of the fees and the JRS getting 68% of a much smaller balance. This is significant in evaluating the current funding shortages facing the JRS, which has been declared actuarially unsound. The JUFC chose not to directly address this issue but asked staff to note the problem in this report.

Recommendation #11: Use Available Technology

The Legislature, Judiciary, and local governments should strongly support the use of available technology, especially the Montana Educational Telecommunications Network (METNET), to improve court operations. The METNET system, which provides a two-way interactive, televideo capability, should be made available to as many courts as possible so that initial hearings can be conducted without the cost and security risks of transporting a defendant from the jail or detention center to the court of jurisdiction.

Issue Summary

As discussed under Recommendation #9, court automation projects in Montana have fallen under the ax of legislative budget cuts. However, innovative approaches to the use of available technology and existing programs, such as televideo capabilities, can improve efficiency by overcoming the limitations of time and distance, which are especially applicable in large rural states like Montana.

Objective

The objective of Recommendation #11 is to help ensure that existing programs and new opportunities are acknowledged and nurtured to improve court operations and promote cost savings.

Testimony and Research

At the JUFC's final meeting, Ms. Candace Wimmer, juvenile justice planner for the Board of Crime Control and staff to the Youth Justice Council, provided the JUFC with information about the METNET system and discussed the METNET's potential application in Youth Court and other courts. Specifically, Ms. Wimmer hoped that televideo systems

could be used to conduct initial hearings for inmates, including juveniles. She explained that juvenile detention facilities are regionally organized and that use of a televideo system to do initial hearings, e.g., arraignments, would save the time and expense of transporting a youth to the court of jurisdiction.

Ms. Wimmer reported that MACo had adopted a resolution supporting legislation that will enable county governments to equip courthouses with a televideo capacity. She explained that this legislation will be included in the Department of Justice's legislative package. She also explained that the Youth Justice Council and the Juvenile Detention Task Force, which help supervise the lottery funding for juvenile detention programs, had considered including in the legislation funding from the lottery. However, the Youth Justice Council and the Juvenile Detention Task Force have reconsidered. Instead, they would like to have video communications technology included under the Office of Court Administrator's court automation program.

Ms. Wimmer told the JUFC that it would cost about \$25,000 to equip one county courthouse with a televideo capacity. The Juvenile Detention Task Force's proposal would be to provide counties with matching funds so that if a county could provide \$12,500 for the televideo system, the state would provide a matching \$12,500. However, she cautioned that counties would incur additional costs in maintaining the system.

Supreme Court Administrator Patrick Chenovick indicated that the METNET system would be considered information technology under the Judiciary's court automation program.

Montana has eight METNET sites: Miles City, Billings, Bozeman, Helena, Kalispell, Great Falls, Missoula, and Butte.⁹⁹

Commission Discussion and Action

The JUFC agreed that the use of televideo systems, such as the METNET, could have a variety of applications for courthouses and could save time and money. However, the JUFC did not feel it necessary to recommend a specific program. Rather, the JUFC agreed to endorse and recommend support for current efforts.

The motion to recommend that the Legislature, Judiciary, and local governments support the use of available technology, especially the METNET system, to improve court operations passed unanimously.¹⁰⁰

Recommendation #12: Modify the Budgetary and Revenue System (BARS)

The Department of Commerce and the Office of Court Administrator should work together to modify the budgetary and accounting revenue system (BARS) format to establish a more uniform system for county reporting of court expenditures. Uniform and accurate reporting of expenditure data is essential to determining the fiscal status of Montana's court system.

Issue Summary

Counties are required by statute to use the budget accounting revenue system (BARS), which was developed by the Department of Commerce to standardize the method by which counties report budget and accounting data.¹⁰¹ However, there is still a significant lack of uniformity in the way counties account for and report budgetary and expense data related to court operations.

Objective

The objective of Recommendation #12 is to address the lack of uniform accounting methods to ensure that in the future, county expense data relative to court operations is complete, accurate, and useful in evaluating the fiscal status of Montana's courts.

Testimony and Research

Throughout its study, the JUFC had to rely on information reported by counties about their court budgets and expenditures. In comparing the data provided by each county, the JUFC found that many county figures for court-related expenses could not be fairly compared because some counties included certain expenditures in their totals that other counties did not include.

Commission Discussion and Action

Frustrated with the inability to get accurate, complete, and timely information regarding county court expense data, the JUFC voted unanimously to recommend that the Department of Commerce and the Office of Court Administrator collaborate to modify the BARS codes so that county expense data on court operations will be accounted for more precisely, be reported more uniformly, and be available in a more timely manner.¹⁰²

CHAPTER 9

JUVENILE JUSTICE RECOMMENDATION

Recommendation #13: Address Juvenile Justice Issues

The Legislature should thoroughly examine and expeditiously address problems with Montana's juvenile justice system, especially confidentiality, sentencing, and extended jurisdiction issues involving serious juvenile offenders.

Issue Summary

Many states are wrestling with increasing rates of and more serious acts of youth violence. There is a growing sense that the juvenile justice system is failing because juvenile offenders can avoid significant consequences for their crimes. Many juveniles become repeat offenders.¹⁰³

In the course of its study, the JUFC found that juvenile justice and Youth Court issues were of significant concern to Montana's judges, elected officials, and others involved in the youth justice field. One of the most significant issues raised was the District Court Judges' inability to sentence a juvenile offender convicted of a serious crime directly to a juvenile correctional facility. (Under current law, a District Court Judge can only recommend the sentence. The Department of Family Services does the placement.)¹⁰⁴ Other significant issues raised included the confidentiality requirements that keep a juvenile's records sealed from the public¹⁰⁵ and the fact that once a juvenile reaches 21 years of age, the Youth Court has no jurisdiction to enforce a sentence (e.g., the conditions of probation or restitution).¹⁰⁶

Objectives

The objectives of Recommendation #13 are to:

- state for the record the JUFC's unanimous opinion that the Legislature should engage in a thorough review of Montana's juvenile justice system and act expeditiously to address juvenile justice issues; and
- endorse the efforts of the Youth Justice Council to study and revise the Montana Youth Court Act.

Testimony and Research

Juvenile probation and Youth Court costs represent a significant District Court budget expense and financial burden to counties. Consuming nearly 20% of District Court budgets statewide, these costs constitute the highest single expense after the administrative and operational expenses of the Clerk of District Court offices. (See Appendix B.)

Ms. Beth Baker, Assistant Attorney General, testified that the Youth Justice Council, which is administered by the Board of Crime Control, was preparing a proposal for an interim study on the Montana Youth Court Act.¹⁰⁷

Mr. Keith Colbo, Colbo Consulting, explained that he was under contract by the Youth Justice Council to conduct research and gather data for the drafting of the interim study proposal so that the study will be focused on the areas of most concern.* He anticipated completing the review by the end of September 1994, and his draft recommendations for the interim study will be presented to the Board of Crime Control.

Commission Discussion and Action

The JUFC members considered three bill draft proposals initiated by JUFC member District Court Judge John W. Larson. The bills would have revised juvenile sentencing and confidentiality requirements and would have provided for extended jurisdiction under the Montana Youth Court Act.¹⁰⁸

However, based on the activities of the Youth Justice Council, Judge Larson withdrew the bills from JUFC consideration. Noting that juvenile probation and Youth Court costs are a significant District Court expense, the JUFC voted unanimously to recommend that the Legislature thoroughly review and expeditiously address juvenile justice issues and to endorse the efforts of the Youth Justice Council and Board of Crime Control.¹⁰⁹

* A televideo conference on the METNET system was held July 8, 1994, on issues relating to the Youth Court Act. Participants included representatives of the Attorney General's Office, the Youth Justice Council and Board of Crime Control, District Court and Youth Court Judges, public defenders, the Juvenile Corrections Division of the Department of Family Services, youth mental health care coordinators, juvenile probation officers, and others. The conference agenda included discussion on the initiation of proceedings, jurisdiction and transfer, youth rights, procedures, disposition, confidentiality, and mental health. A videotape and notes from the meeting are available through the Youth Justice Council and the Board of Crime Control in Helena.

CHAPTER 10

OTHER ISSUES

Judicial Selection

Because of the scope of the JUFC's study tasks and the fact that court funding and administration were the most significant judicial issues, the JUFC agreed early in the study process not to focus on judicial selection issues.

Also, judicial selection standards and procedures did not surface as a key concern to most of those who responded to the JUFC's problem identification survey.¹¹⁰

However, Mr. Robert Carlson, President of the State Bar of Montana, addressed the judicial selection process in testimony before the JUFC. He said that the nominations to vacancies through the Judicial Nomination Commission should be made less political by establishing a standard screening procedure. The election procedure for judges appointed to fill unexpired terms was also cited as a problem area. To save costs and encourage more qualified applicants for vacant judicial positions, Mr. Carlson recommended that once a judge who was initially appointed to fill a vacancy is elected, the judge should stay in the position for a full term, rather than just for the remainder of the previous judge's term. Finally, Mr. Carlson said that the State Bar felt that serious consideration should be given to increasing judicial salaries, which are the lowest in the nation, to ensure that highly qualified judges are recruited and retained.¹¹¹

Clerks of District Courts

In the course of discussions about court administration, the JUFC discussed the role of Clerks of District Courts. At issue was how to address fragmented court administration in Montana's District Courts. Court unification literature suggested that Clerks of District Courts should be more responsive to District Court Judges and that Clerks of District Courts should be appointed, rather than elected, officials.¹¹² However, Clerks of District Courts strongly opposed the concept of appointment. They argued that they represented the public's access to the court system and should, therefore, remain responsible to the people through the electoral process.¹¹³

The JUFC's discussion of Clerks of District Courts turned to whether the Clerks should continue to be elected on a partisan basis. Some JUFC members noted that the duties of the Clerks of District Courts were largely administrative and did not impact public policy. Furthermore, the Judiciary should not be involved in partisan politics.¹¹⁴

Initially, the JUFC reached consensus on this point and developed a preliminary recommendation that Clerks of District Courts be elected on a nonpartisan basis.¹¹⁵ However, during testimony at the public hearing on the JUFC's preliminary recommendations, serious concerns surfaced among the Clerks of District Courts that conducting a nonpartisan campaign would be prohibitively costly for those seeking election to the office. (A nonpartisan candidate cannot receive any political party support, such as endorsements, campaign materials, or volunteer help. Consequently, a nonpartisan campaign is more difficult and more costly than a partisan campaign.)¹¹⁶ Based on this testimony, a majority of JUFC members voted to table further consideration of making the Clerks of District Courts into a nonpartisan office.¹¹⁷

ENDNOTES

1. Quoted by Sandra Muckelston, The Judiciary, Montana Constitutional Convention 1971-1972, Study No. 14, Montana Constitutional Convention Commission, pp. 20-21.
2. See Judicial Unification and Finance Commission (JUFC) Minutes, Montana Legislative Council, October 21, 1993.
3. See Sheri S. Heffelfinger, Montana's Court System: Conflicts of Principle in Court Structure, Administration, and Finance, prepared for the JUFC, Montana Legislative Council, October 1993.
4. See Sheri S. Heffelfinger, Review of Previous Studies on Montana's Judiciary, prepared for the JUFC, Montana Legislative Council, August 1993.
5. See Sheri S. Heffelfinger, Summary Results: Problem Identification Survey, prepared for the JUFC, Montana Legislative Council, February 1994.
6. See Sheri S. Heffelfinger, Summary Outline: Effects of State Funding in Selected States, prepared for the JUFC, Montana Legislative Council, February 1994; see also Sheri S. Heffelfinger, Summary Paper: Court Structure, Administration, and Trends in the States, prepared for the JUFC, Montana Legislative Council, February 1994.
7. See JUFC Minutes, February 17-18, 1994.
8. See JUFC Minutes, March 24-25, 1994.
9. See JUFC Minutes, July 13, 1994.
10. See JUFC Minutes, March 24-25, 1994.
11. See Art. VII, sec. 2, Mont. Const.
12. See Title 3, chapter 1, part 7, MCA.
13. See section 3-1-112, MCA.
14. See Title 3, chapter 5, part 6, MCA, with regard to salaries of court reporters and Title 41, chapter 5, part 7, MCA, with regard to salaries of juvenile probation officers.
15. See JUFC Minutes, May 11, 1994, Exhibit #3 for data on the positions, number of personnel, and salary levels in each judicial district, based on survey data collected by the Office of Court Administrator.
16. See section 7-6-2511, MCA.
17. See section 61-3-537, MCA.
18. See section 61-3-509, MCA.

19. See section 3-5-901, MCA.
20. See Montana Supreme Court, 1992 Annual Judicial Report, Office of Court Administrator, p. 45.
21. See section 7-6-2352, MCA.
22. See Larry Berkson and Susan Carbon, Court Unification: History, Politics and Implementation (National Institute of Law Enforcement and Criminal Justice, U.S. Department of Justice, August 1978), for a historical review of court unification and a recapitulation of Roscoe Pound's writings and addresses.
23. See State Bar of Montana, "A Proposal to Study Court Unification", December 2, 1992, p. 15.
24. See Sandra Muckelston, The Judiciary, Montana Constitutional Convention, Study No. 14, prepared by the Montana Constitutional Convention Commission.
25. See Jean M. Bowman, "The Judicial Article: What Went Wrong?", Montana Law Review, Vol. 51, 1990, p. 492.
26. See Lee Heiman, Jr., State Assumption of Costs for District Court Operations, State Commission on Local Government, April 1977.
27. See Richard S. Hargesheimer, Montana's District Courts: A Report to the Forty-Fifth Legislature by the Subcommittee on the Judiciary, Montana Legislative Council, December 1976.
28. See Lois Menzies, The District Courts, Indigent Defense, and Prosecutorial Services in Montana: A Report to the Forty-Eighth Legislature, prepared for Joint Subcommittee on Judiciary, Montana Legislative Council, December 1982.
29. See Lois Menzies, Court Unification in Montana, prepared for the Joint Interim Subcommittee No. 3, Montana Legislative Council, December 1984.
30. State Bar of Montana, Report of the District Court Funding Committee: A Proposal to Study Court Unification, December 1992, pp. 4-7.
31. See Sheri Heffelfinger, Summary Paper: Court Structure, Administration, and Trends in the States, prepared for the JUFC, Montana Legislative Council, February 1994; see also Sheri Heffelfinger, Summary Outline: Effects of State Funding in Selected States, prepared for the JUFC, Montana Legislative Council, February 1994.
32. See National Center for State Courts, State Court Caseload Statistics: Annual Report 1991, February 1993, pp. 165-170.
33. See Robert Tobin, Governmental Responsibility for Court Financing in the States, National Center for State Courts, August 1989.
34. See John K. Hudzick, The Effects of State Financing: Summary Findings From the Four-State Study, National Center for State Courts, October 1990; see also Robert Tobin and Brian Lynch, The Effects of State Financing of Trial Courts, National Center for State Courts, October 1990.
35. See JUFC Minutes, February 17-18, 1994, pp. 11-21.
36. See District Court Funding Committee, Final Report, State Bar of Montana, December 1990, pp. 2-3.

37. See JUFC Minutes, December 20, 1993, Exhibit #1.
38. Ibid., Exhibit #2.
39. Ibid., p. 4.
40. Ibid., Exhibit #9.
41. Ibid., Exhibit #3.
42. Ibid., Exhibit #6.
43. See JUFC Minutes, May 11, 1994, p. 4.
44. See JUFC Minutes, March 24-25, 1994.
45. Ibid.
46. Ibid.
47. Ibid.
48. See JUFC Minutes, March 24-25, 1994; see also JUFC, Minutes, May 11, 1994.
49. See sections 41-5-704 and 41-5-705, MCA.
50. See JUFC Minutes, May 11, 1994, p. 21.
51. Ibid., pp. 6-9.
52. See JUFC Minutes, May 11, 1994, pp. 18-19.
53. See also JUFC Minutes, March 24-25, 1994, pp. 22-23; and JUFC Minutes, May 11, 1994, pp. 17-22.
54. See JUFC Minutes, July 13, 1994, pp. 5-7.
55. Ibid., pp. 7-9.
56. Ibid., pp. 15-16.
57. Ibid., pp. 13-14.
58. Ibid., Attachment #10.
59. Ibid., Attachment #10.
60. Ibid., pp. 23-33.
61. See JUFC Minutes, September 15, 1994, pp. 8-9.
62. See JUFC Minutes, September 15, 1994; see also Appendix A, bill draft LC 67.
63. See District Court Funding Committee, Final Report, State Bar of Montana, December 1990, Exhibit G, pp. 8-9.
64. See JUFC Minutes, March 24-25, 1994, p. 9.

65. See JUFC Minutes, March 24-25, 1994; and JUFC Minutes, May 11, 1994, p. 18.
66. See JUFC Minutes, September 15, 1994, p. 13.
67. See Title 53, chapter 21, MCA.
68. See JUFC Minutes, September 15, 1994, pp. 8-9.
69. See JUFC Minutes, September 15, 1994, pp. 9-11.
70. See JUFC Minutes, May 11, 1994, pp. 4-5.
71. See JUFC Minutes, August 22, 1994, p. 17.
72. See JUFC Minutes, September 15, 1994, p. 17.
73. Ibid., pp. 17-18.
74. See JUFC Minutes, December 20, 1993, Exhibit #1, p. 2.
75. See Ibid., Exhibit #5, p. 3.
76. See Heffelfinger, Summary Results of Problem Identification Survey, Part II.
77. See JUFC Minutes, May 11, 1994, pp. 8-12.
78. See JUFC Minutes, September 15, 1994, pp. 15-16.
79. See JUFC Minutes, May 11, 1994, pp. 8-12 and Exhibit #2, pp. 3-6.
80. See JUFC Minutes, July 13, 1994, Attachment #4.
81. Ibid., Attachment #6; see also JUFC Minutes, August 22, 1994, pp. 9-11.
82. See JUFC Minutes, August 22, 1994, pp. 9-11.
83. Art. VII, sec. 3, Mont. Const.
84. See section 3-2-101, MCA.
85. See JUFC Minutes, July 13, 1994, Attachment #2, letter to the JUFC from Supreme Court Justice James C. Nelson.
86. See JUFC Minutes, March 24-25, 1994.
87. See sections 3-5-111 and 3-5-112, MCA.
88. Art. VII, sec. 2., Mont. Const.
89. See JUFC Minutes, February 17-18, 1994, p. 18.
90. See JUFC Minutes, February 17-18, 1994, p. 18, testimony of Professor Carl Baar; see also JUFC Minutes, March 24-25, 1994, pp. 20-24.
91. See JUFC Minutes, December 20, 1993, Exhibit #6, pp. 2-3.
92. Provided by the Office of Court Administrator.

93. See Montana Supreme Court, 1993 Annual Judicial Report, Office of Court Administrator, p. 45.

94. See JUFC Minutes, December 20, 1993, p. 10.

95. See section 3-5-901(4), MCA.

96. See JUFC Minutes, August 22, 1994, pp. 14-15.

97. See JUFC Minutes, September 15, 1994, p. 12.

98. See JUFC Minutes, August 22, 1994, pp. 13-14.

99. See JUFC Minutes, September 15, 1994, pp. 7-8 and Exhibit #5.

100. Ibid., p. 16.

101. See Title 7, chapter 6, part 23, MCA, and specifically section 7-6-2302, MCA.

102. See JUFC Minutes, September 15, 1994, pp. 16-17.

103. See "Juvenile Justice: Should violent youths get tougher punishments?", The CQ Researcher, February 25, 1994, Vol. 4, No. 8.

104. See section 41-5-523, MCA.

105. See Title 41, chapter 5, part 6, MCA.

106. See section 41-5-205, MCA.

107. See JUFC Minutes, August 22, 1994, p. 7.

108. See JUFC Minutes, August 22, 1994, Exhibit #5, bill drafts JUFC16, JUFC16.1, and JUFC16.2.

109. See JUFC Minutes, September 15, 1994, pp. 14-15.

110. See Sheri S. Heffelfinger, Problem Identification Survey Results, prepared for the JUFC, Montana Legislative Council, February 1994.

111. See JUFC Minutes, December 20, 1993, Exhibit #1, p. 4.

112. See Sheri S. Heffelfinger, Montana's Court System: Conflicts of Principle in Court Structure, Administration, and Finance, prepared for the JUFC, Montana Legislative Council, October 1993, pp. 24-26.

113. See JUFC Minutes, December 20, 1993, pp. 5-8.

114. See JUFC Minutes, March 24-25, 1994, pp. 17 and 20.

115. Ibid.

116. JUFC Minutes, July 13, 1994, p. 10.

117. Ibid., p. 23.

APPENDIX A:
BILL DRAFTS

1 _____ BILL NO. _____

2 INTRODUCED BY _____

3 BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING PERMANENT THE PROVISION SETTING THE NUMBER
6 OF ASSOCIATE JUSTICES ON THE MONTANA SUPREME COURT AT SIX; REPEALING SECTION 5,
7 CHAPTER 683, LAWS OF 1979, AND SECTION 1, CHAPTER 362, LAWS OF 1987; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 NEW SECTION. **Section 1. Repealer.** Section 5, Chapter 683, Laws of 1979, and section 1,
13 Chapter 362, Laws of 1987, are repealed.

14
15 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

16 -END-

1 BILL NO. _____

2 INTRODUCED BY _____

3 BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE CHIEF JUSTICE, RATHER THAN THE
6 GOVERNOR, MAY ASSIGN A DISTRICT JUDGE TO HOLD COURT IN A DISTRICT OTHER THAN THE
7 JUDGE'S OWN DISTRICT; ELIMINATING THE REQUIREMENT FOR A REQUEST BY AN INTERESTED
8 PERSON; AMENDING SECTIONS 3-5-111 AND 3-5-112, MCA; AND PROVIDING AN IMMEDIATE
9 EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 3-5-111, MCA, is amended to read:

14 **"3-5-111. District courts presided over by judges of other districts.** A judge of the district court
15 of any judicial district may hold the district court in any county of another district ~~than his own~~ at the
16 request of the judge ~~thereof~~ of the other district or as otherwise provided by law. ~~Upon the request of the~~
17 ~~governor, it is his duty to do so.~~ A district judge shall hold the district court in a county of another district
18 if so requested by the chief justice. ~~In either case the~~ The judge holding the court in the other district has
19 the same power either in court or chambers as a judge thereof as within the judge's own district."

20
21 **Section 2.** Section 3-5-112, MCA, is amended to read:

22 **"3-5-112. ~~Order from governor~~ Authority of chief justice.** (1) If The chief justice may by written
23 order assign a district judge to hold court in a county of another district if:

24 (a) for any cause a district court in another district is not or cannot be held in any county by the
25 a judge or judges thereof or by a district judge requested by such judge or judges to hold such court of the
26 other district or acting for the other district; or if

27 (b) the business of the court in any county in the other district is not or cannot be dispatched with
28 reasonable promptness, the governor may, upon application of any interested person, by an order in
29 writing, require some district judge to hold court in said county for such time as may be specified in the
30 order.

5 -END-

1 BILL NO. _____

2 INTRODUCED BY _____

3 BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING COUNTIES TO ESTABLISH A FUND FOR DISTRICT
6 COURT RECORDS RETENTION, PRESERVATION, AND TECHNOLOGY; CLARIFYING THE DISPOSITION OF
7 DISTRICT COURT FEES; RAISING CERTAIN DISTRICT COURT FEES; PROVIDING THAT THE INCREASE IN
8 CERTAIN FEES BE DEPOSITED IN THE COUNTY FUND FOR DISTRICT COURT RECORDS RETENTION,
9 PRESERVATION, AND TECHNOLOGY; REQUIRING THAT A PORTION OF THE FEE FOR ISSUING A
10 MARRIAGE LICENSE OR FOR FILING A DECLARATION OF MARRIAGE BE USED BY THE COUNTY FOR
11 DISTRICT COURT FUNDING; AMENDING SECTIONS 19-5-404, 25-1-201, AND 25-10-405, MCA; AND
12 PROVIDING AN EFFECTIVE DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **NEW SECTION. Section 1. Fund for district court records retention, preservation, and technology.**

17 (1) The governing body of each county shall establish a fund for district court records retention,
18 preservation, and technology.

19 (2) The clerk of the district court is responsible for expenditures from the fund and shall use the
20 money for expenses related to the maintenance of district court records.

21 (3) Money in the fund that is unexpended at the end of each fiscal year must remain in the fund
22 to meet future needs.

23
24 **Section 2.** Section 25-1-201, MCA, is amended to read:

25 **"25-1-201. Fees of clerk of district court.** (1) The clerk of the district court shall collect the
26 following fees:

27 (a) at the commencement of each action or proceeding, except a petition for dissolution of marriage,
28 from the plaintiff or petitioner, ~~\$80~~ \$85;

29 (b) for filing a complaint in intervention, from the intervenor, ~~\$80~~ \$85;

30 (c) for filing a petition for dissolution of marriage, a fee of ~~\$120~~ \$125; and

1 (d) for filing a petition for legal separation, a fee of ~~\$120~~ \$125;
 2 ~~(b)~~(e) from each defendant or respondent, on appearance, ~~\$60~~ \$65;
 3 ~~(e)~~(f) on the entry of judgment, from the prevailing party, \$45;
 4 ~~(d)~~(g) for preparing copies of papers on file in the clerk's office, 50 cents per page for the first five
 5 pages of each file, per request, and 25 cents per additional page;
 6 ~~(e)~~(h) for each certificate, with seal, \$2;
 7 ~~(f)~~(i) for oath and jurat, with seal, \$1;
 8 ~~(g)~~(j) for search of court records, 50 cents for each year searched, not to exceed a total of \$25;
 9 ~~(h)~~(k) for filing and docketing a transcript of judgment or transcript of the docket from all other
 10 courts, the fee for entry of judgment provided for in subsection ~~(1)(e)~~ (1)(f);
 11 ~~(i)~~(l) for issuing an execution or order of sale on a foreclosure of a lien, \$5;
 12 ~~(j)~~(m) for transmission of records or files or transfer of a case to another court, ~~\$5~~ \$25;
 13 ~~(k)~~(n) for filing and entering papers received by transfer from other courts, ~~\$10~~ \$30;
 14 ~~(l)~~(o) for issuing a marriage license, \$30;
 15 ~~(m)~~(p) on the filing of an application for informal, formal, or supervised probate or for the
 16 appointment of a personal representative or the filing of a petition for the appointment of a guardian or
 17 conservator, from the applicant or petitioner, ~~\$70~~ \$75, which includes the fee for filing a will for probate;
 18 ~~(n)~~(q) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative
 19 of the estate of a nonresident decedent, \$55;
 20 ~~(o)~~(r) for filing a declaration of marriage without solemnization, \$30;
 21 ~~(p)~~(s) for filing a motion for substitution of a judge, \$100.
 22 (2) ~~Except as provided in subsections (3) through (8), 32%~~ Thirty-two percent of all fees collected
 23 by the clerk of the district court under subsections (1)(m) and (1)(n) must be deposited in and credited to
 24 the county district court fund. If no county district court fund exists, that portion of the fees must be
 25 deposited in the county general fund for district court operations. The remaining portion of the fees must
 26 be remitted to the state to be deposited as provided in 19-5-404.
 27 (3) In the case of a fee collected for issuing a marriage license under subsection (1)(o) or filing a
 28 declaration of marriage without solemnization, under subsection (1)(r):
 29 (a) \$14 must be deposited in and credited to the state general fund;
 30 (b) \$6.40 must be deposited in and credited to the county ~~general~~ district court fund. If no county

1 district court fund exists, the money must be deposited in the county general fund for district court
2 operations. and

3 (c) \$9.60 must be remitted to the state to be deposited as provided in 19-5-404.

4 (4) Of the fee for filing a petition for dissolution of marriage under subsection (1)(c) or legal
5 separation under subsection (1)(d) :

6 (a) \$40 must be deposited in the state general fund;

7 (b) \$35 must be remitted to the state to be deposited as provided in 19-5-404;

8 (c) \$5 must be deposited in the children's trust fund account established by 41-3-702, and;

9 (d) \$20 must be deposited in and credited to the county district court fund. If no county district
10 court fund exists, the \$20 must be deposited in the county general fund for district court operations.

11 (e) \$20 must be remitted to the state for deposit in the state general fund for a portion of judicial
12 salaries; and

13 (f) \$5 must be deposited in the fund established in [section 1] for district court records.

14 (5) ~~(a) Before the percentages contained in subsection (2) are applied and the fees deposited in the~~
15 ~~district court fund or the county general fund or remitted to the state, the clerk of the district court shall~~
16 ~~deduct from the following fees the amounts indicated:~~

17 ~~(i) Of the fee collected at the commencement of each action or proceeding under subsection (1)(a)~~
18 ~~and for filing a complaint in intervention as provided in subsection (1)(a), (1)(b):~~

19 ~~(a) \$35; must be deposited in the county district court fund. If no county district court fund exists,~~
20 ~~the money must be deposited in the county general fund for district court operations.~~

21 ~~(b) \$20 must be remitted to the state for deposit in the state general fund for a portion of judicial~~
22 ~~salaries;~~

23 ~~(c) \$5 must be deposited in the fund established in [section 1] for district court records; and~~

24 ~~(d) the balance of the fee must be deposited in the same manner as the fees listed in subsection~~
25 ~~(2).~~

26 ~~(ii)(6) Of the fee collected from each defendant or respondent, on appearance, as provided in~~
27 ~~subsection (1)(b), (1)(e):~~

28 ~~(a) \$25 must be deposited in the county district court fund. If no county district court fund exists,~~
29 ~~the money must be deposited in the county general fund for district court operations;~~

30 ~~(b) \$5 must be deposited in the fund established in [section 1] for district court records; and~~

(c) the balance of the fee must be deposited in the same manner as the fees listed in subsection (2).

~~iii~~(7) Of the fee collected on the entry of judgment as provided in subsection ~~(1)(e)~~, (1)(f):

(a) \$15 must be deposited in the county district court fund. If no county district court fund exists, the money must be deposited to the county general fund for district court operations.

(b) \$20 must be remitted to the state for deposit in the state general fund for a portion of judicial salaries; and

(c) the balance of the fee must be deposited in the same manner as the fees listed in subsection (2).

~~iv~~(8) Of the amount collected from the applicant or petitioner, on the filing of an application for probate or for the appointment of a personal representative or on the filing of a petition for appointment of a guardian or conservator, as provided in subsection ~~(1)(m)~~, (1)(p):

(a) \$15 must be deposited in the county district court fund. If no county district court fund exists, the money must be deposited in the county general fund for district court operations.

(b) \$20 must be remitted to the state for deposit in the state general fund for a portion of judicial salaries;

(c) \$5 must be deposited in the fund established in [section 1] for district court records; and

(d) the balance of the fee must be deposited in the same manner as the fees listed in subsection (2).

~~(b) The clerk of the district court shall deposit the money deducted in subsection (5)(a) in the county general fund for district court operations unless the county has a district court fund. If the county has a district court fund, the money must be deposited in that fund.~~

(9) Of the fee collected under subsection (1)(q):

(a) \$20 must be remitted to the state for deposit in the state general fund for a portion of judicial salaries; and

(b) the balance of the fee must be deposited in the same manner as the fees listed in subsection (2).

~~(6)~~(10) The fee for filing a motion for substitution of a judge, as provided in subsection ~~(1)(p)~~ (1)(s), must be remitted to the state to be deposited as provided in 19-5-404.

~~(7)~~(11) Fees collected under subsections ~~(1)(d)~~ (1)(g) through ~~(1)(i)~~ (1)(l) must be deposited in the

1 county district court fund. If no county district court fund exists, fees must be deposited in the county
2 general fund for district court operations.

3 ~~(8) The clerk of the district court shall remit to the credit of the state general fund \$20 of each fee~~
4 ~~collected under the provisions of subsections (1)(a) through (1)(e), (1)(m), and (1)(n) to fund a portion of~~
5 ~~judicial salaries."~~
6

7 **Section 3.** Section 19-5-404, MCA, is amended to read:

8 **"19-5-404. Contributions by state.** (1) The state of Montana shall contribute monthly to the
9 pension trust fund a sum equal to 6% of the compensation of each member.

10 (2) In addition, the clerk of each district court shall transmit to the state:

11 (a) 68% of certain filing fees as required under 25-1-201(2) and;

12 (b) that portion of the fee for filing a petition for dissolution of marriage and specified in
13 25-1-201(4)(b);

14 (c) the fee for filing a motion for substitution of a judge specified in 25-1-201(4) and (6) to the
15 state, which(10); and

16 (d) 68% of the balance of certain fees as specified under 25-1-201(5)(d), (6)(c), (7)(c), (8)(d), and
17 (9)(b).

18 (3) Of the total amount received under subsection (2), the state treasurer shall first deposit in the
19 pension trust fund an amount equal to 34.71% of the total compensation paid to district judges and
20 supreme court justices who are covered by the judges' retirement system and then deposit the balance in
21 the state general fund.

22 (4) The clerk of the supreme court shall pay one-fourth of the fees collected under 3-2-403 to the
23 division to be credited to the pension trust fund.

24 ~~(2)(5)~~ (5) The state of Montana shall contribute monthly from the renewable resource grant and loan
25 program account in the state special revenue fund to the judges' pension trust fund an amount equal to
26 34.71% of the compensation paid to the chief water court judge."
27

28 **Section 4.** Section 25-10-405, MCA, is amended to read:

29 **"25-10-405. Governmental entities not required to prepay fees -- exceptions.** The state, a county,
30 a municipality, or any subdivision thereof or any officer when prosecuting or defending an action on behalf

1 of the state, a county, a municipality, or a subdivision thereof is not required to pay or deposit any fee or
2 amount to or with any officer during the prosecution or defense of an action, except the fee under
3 25-1-2014 ~~(p)(1)(s)~~ for filing a motion for substitution of a judge and all fees for photocopies, postage and
4 handling, certifications, authentications, and record searches."

5
6 NEW SECTION. **Section 5. Codification instruction.** [Section 1] is intended to be codified as an
7 integral part of Title 3, chapter 5, part 5, and the provisions of Title 3, chapter 5, part 5, apply to [section
8 1].

9
10 NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 1995.

11 -END-

1 BILL NO. _____
2 INTRODUCED BY
3 _____
4 _____

5 BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION
6

7 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ALL COURTS OF ORIGINAL JURISDICTION TO
8 IMPOSE A USER SURCHARGE IN CRIMINAL, CIVIL, AND PROBATE CASES; PROVIDING THAT THE
9 SURCHARGE BE USED FOR STATE FUNDING OF COURT INFORMATION TECHNOLOGY; PROVIDING A
10 STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN EFFECTIVE
11 DATE."
12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14

15 NEW SECTION. Section 1. User surcharge for court information technology --
16 exception. (1) Except as provided in subsection (2), all courts of original
17 jurisdiction shall impose:

18 (a) on a defendant in criminal cases, a \$5 user surcharge upon conviction for any
19 conduct made criminal by state statute or upon forfeiture of bond or bail;

20 (b) on the initiating party in civil and probate cases, a \$5 user surcharge at
21 the commencement of each action, proceeding, or filing; and

22 (c) on each defendant or respondent in civil cases, a \$5 user surcharge upon
23 appearance.

24 (2) If a court determines that a defendant in a criminal case or a party in a
25 civil case is unable to pay the surcharge, the court may waive payment of the surcharge
26 imposed by this section.

27 (3) The surcharge imposed by this section is not a fee or fine and must be imposed
28 in addition to other taxable court costs, fees, or fines. The surcharge may not be used
29 in determining the jurisdiction of any court.

30 (4) The amounts collected under this section must be forwarded to the state

1 treasurer and deposited in the account established in [section 2] for state funding
2 of court information technology.

3
4 **NEW SECTION. Section 2. Account established for court information technology**
5 **-- statutory appropriation.** (1) There is an account in the state special revenue fund
6 for state funding of court information technology.

7 (2) Money collected pursuant to [section 1] must be deposited in this account.

8 (3) Money in this account is statutorily appropriated, as provided in 17-7-502,
9 to the supreme court to be used for state funding of court information technology.

10
11 **Section 3.** Section 17-7-502, MCA, is amended to read:

12 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.**

13 (1) A statutory appropriation is an appropriation made by permanent law that
14 authorizes spending by a state agency without the need for a biennial legislative
15 appropriation or budget amendment.

16 (2) Except as provided in subsection (4), to be effective, a statutory
17 appropriation must comply with both of the following provisions:

18 (a) The law containing the statutory authority must be listed in subsection (3).

19 (b) The law or portion of the law making a statutory appropriation must
20 specifically state that a statutory appropriation is made as provided in this section.

21 (3) The following laws are the only laws containing statutory appropriations:
22 2-9-202; 2-17-105; 2-18-812; 3-5-901; [section 2]; 5-13-403; 10-3-203; 10-3-312;
23 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117;
24 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-106; 17-3-212;
25 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409; 17-7-304;
26 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512;
27 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361;
28 20-26-1403; 20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612;
29 23-5-631; 23-7-301; 23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503;
30 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206;

1 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108;
2 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416; 80-11-310; 81-5-111;
3 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220;
4 90-9-306; and 90-14-107.

5 (4) There is a statutory appropriation to pay the principal, interest,
6 premiums, and costs of issuing, paying, and securing all bonds, notes, or other
7 obligations, as due, that have been authorized and issued pursuant to the laws of
8 Montana. Agencies that have entered into agreements authorized by the laws of Montana
9 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107,
10 as determined by the state treasurer, an amount sufficient to pay the principal and
11 interest as due on the bonds or notes have statutory appropriation authority for the
12 payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of
13 19-6-709 terminates upon death of last recipient eligible for supplemental benefit;
14 and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates July
15 1, 1995.)"

16
17 NEW SECTION. **Section 4. Codification instruction.** (1) [Section 1] is intended
18 to be codified as an integral part of Title 3, and the provisions of Title 3 apply to
19 [section 1].

20 (2) [Section 2] is intended to be codified as an integral part of Title 3,
21 chapter 5, part 9, and the provisions of Title 3, chapter 5, part 9, apply to [section
22 2].

23
24 NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 1995.

25 -END-

1 _____ BILL NO. _____

2 INTRODUCED BY

3 _____
4 _____
5 BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION
6

7 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE DISTRICT COURT CRIMINAL
8 REIMBURSEMENT PROGRAM PAY FOR CERTAIN EXPENSES INCURRED IN STATE DISTRICT COURT FOR
9 POSTCONVICTION RELIEF HEARINGS AND HABEAS CORPUS PROCEEDINGS AND FOR CERTAIN EXPENSES
10 INCURRED BY THE STATE IN FEDERAL HABEAS CORPUS CASES CHALLENGING THE VALIDITY OF A
11 CONVICTION OR OF A SENTENCE; AMENDING SECTION 3-5-901, MCA; AND PROVIDING AN EFFECTIVE
12 DATE."
13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15

16 Section 1. Section 3-5-901, MCA, is amended to read:

17 "3-5-901. State assumption of certain district court expenses -- designation
18 as district court criminal reimbursement program. (1) ~~The state shall, to~~ To the
19 extent that revenue is available under 61-3-509, the state shall fund:

20 (a) the following district court expenses in criminal cases only:

21 ~~(a)~~ (i) salaries of court reporters;

22 ~~(b)~~ (ii) fees for transcripts of proceedings;

23 ~~(c)~~ (iii) witness fees and necessary expenses;

24 ~~(d)~~ (iv) juror fees;

25 ~~(e)~~ (v) expenses for indigent defense;

26 ~~(f)~~ (vi) expenses of the appellate defender commission and the office of
27 appellate defender; and

28 ~~(g)~~ (vii) expenses for psychiatric examinations;

29 (b) the district court expenses, as listed in subsection (1)(a), in all
30 postconviction proceedings held pursuant to Title 46, chapter 21, and in all habeas

1 corpus proceedings held pursuant to Title 46, chapter 22, and appeals from those
2 proceedings; and

3 (c) the following expenses incurred by the state in federal habeas corpus cases
4 that challenge the validity of a conviction or of a sentence:

5 (i) transcript fees;

6 (ii) witness fees; and

7 (iii) expenses for psychiatric examinations.

8 (2) The revenue received under 61-3-509 is statutorily appropriated, as
9 provided in 17-7-502, to the supreme court for funding the expenses listed in
10 subsection (1) and the costs of administering this section.

11 (3) If money appropriated for the expenses listed in subsection (1):

12 (a) exceeds the amount necessary to fully fund those expenses, the excess amount
13 must be used for district court grants as provided in 7-6-2352; or

14 (b) is insufficient to fully fund those expenses, the expenses listed in
15 subsection (1)(c), the expenses for the appellate defender commission, and the
16 expenses for the office of appellate defender must be funded first and the. The county
17 is responsible for payment of the balance.

18 (4) Money deposited in the state general fund in fiscal year 1992, as provided
19 in 61-3-509, that is in excess of the legislative appropriation is statutorily
20 appropriated, as provided in 17-7-502, to the supreme court for district court and
21 courts of limited jurisdiction automation purposes during the 1995 biennium.

22 (5) This section may be cited as the district court criminal reimbursement
23 program. (Subsection (4) terminates July 1, 1995--sec. 7, Ch. 330, L. 1993.)"

24
25 NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 1995.

26 -END-

1 _____ BILL NO. _____

2 INTRODUCED BY _____

3 BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STATE AND COUNTY RESPONSIBILITIES FOR
6 DISTRICT COURT FUNDING; ESTABLISHING A PROGRAM UNDER WHICH THE STATE WILL PAY A
7 PERCENTAGE OF CERTAIN COURT COSTS; ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT FOR
8 STATE FUNDING OF CERTAIN COURT COSTS AND PROVIDING A STATUTORY APPROPRIATION OF
9 MONEY IN THE ACCOUNT; REQUIRING COUNTIES TO IMPOSE A LIGHT VEHICLE TAX FOR STATE
10 FUNDING OF CERTAIN COURT EXPENSES; PROVIDING THAT CASE FILINGS USED TO DETERMINE STATE
11 PAYMENT OF COURT REPORTER SALARIES BE DETERMINED BY FISCAL YEAR; REDUCING THE LOCAL
12 OPTION TAX ON LIGHT VEHICLES AND REQUIRING THAT COUNTIES FIRST USE THE REVENUE FOR
13 DISTRICT COURT NEEDS; ELIMINATING THE REQUIREMENT THAT A COUNTY HOLD A PUBLIC HEARING
14 EACH YEAR TO IMPOSE THE LOCAL OPTION TAX ON LIGHT VEHICLES; MAKING PERMANENT THE
15 CURRENT DISPOSITION OF THE LOCAL OPTION TAX REVENUE BETWEEN THE COUNTY AND CITIES
16 WITHIN THE COUNTY; RAISING THE DISTRICT COURT FEE FOR COURT REPORTERS AND REQUIRING
17 THAT A PORTION OF THE FEE BE USED FOR STATE FUNDING OF CERTAIN COURT COSTS; AMENDING
18 SECTIONS 3-5-602, 3-5-901, 7-6-2352, 17-7-502, 25-1-202, 61-3-509, AND 61-3-537, MCA; REPEALING
19 SECTION 4, CHAPTER 749, LAWS OF 1991, AND SECTION 1, CHAPTER 217, LAWS OF 1993; AND
20 PROVIDING EFFECTIVE DATES."

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23
24 NEW SECTION. Section 1. State cost-sharing program for certain court expenses -- procedures.

25 (1) Revenue that is statutorily appropriated to the supreme court under [section 2] must be used first to
26 fund the costs of administering this section and then to provide state funding of up to 50% of a county's
27 costs for the following court expenses:

- 28 (a) representation of an indigent person:
- 29 (i) who is charged with a misdemeanor in a justice's court;
- 30 (ii) during commitment proceedings pursuant to Title 53, chapter 21, part 1;

(iii) in a case involving a youth detained or charged under the Montana Youth Court Act, Title 41, chapter 5; or

(iv) in a child abuse, neglect, and dependency proceeding under Title 41, chapter 3, when representation is required by law;

(b) juvenile probation; and

(c) court reporter salaries in civil cases as provided in 3-5-602.

(2) If money appropriated for the expenses listed in subsection (1):

(a) exceeds the amount necessary to fund 50% of each of the expenses, the excess must be used for district court grants as provided in 7-6-2352; or

(b) is insufficient to fund 50% of each of the expenses, the supreme court administrator shall prorate the funds to pay the percentage that can be paid for each expense.

(3) The supreme court administrator may establish procedures necessary to administer this section.

NEW SECTION. Section 2. Court cost-sharing account established -- statutory appropriation. (1)

There is an account in the state special revenue fund to provide state funding for a percentage of certain court expenses.

(2) Money remitted to the state treasurer as a court fee under 61-3-509(4)(b) must be deposited in this account.

(3) Money in this account is statutorily appropriated, as provided in 17-7-502, to the supreme court for payment of the state's share of court expenses as provided in [section 1].

NEW SECTION. Section 3. Mandatory local vehicle tax. (1) In addition to the tax imposed under 61-3-504(2), a county shall impose a local vehicle tax on vehicles subject to a property tax under 61-3-504(2) at a rate of 0.1% of the value determined under 61-3-503.

(2) The county treasurer shall forward revenue collected under this section to the state treasurer at the time and in the manner provided for in 61-3-509.

(3) The state treasurer shall credit amounts received under this section in the manner provided for in 61-3-509(4).

Section 4. Section 61-3-509, MCA, is amended to read:

1 "61-3-509. Disposition of taxes. (1) ~~Except as provided in subsection (2), the~~ The county treasurer
2 shall, after deducting the ~~district court fee~~ amounts provided for in subsection (2), credit all remaining taxes
3 on motor vehicles and fees in lieu of tax on motor homes, travel trailers, and campers collected under
4 61-3-504, 61-3-521, and 61-3-537 to a motor vehicle suspense fund, ~~and at~~. At some time between
5 March 1 and March 10 of each year and every 60 days thereafter, the county treasurer shall distribute the
6 money in the motor vehicle suspense fund in the relative proportions required by the levies for state,
7 county, school district, and municipal purposes in the same manner as personal property taxes are
8 distributed.

9 (2) (a) The county treasurer shall deduct as a district court fee 7% of the amount of the 2% tax
10 collected under 61-3-504 on an automobile or truck having a rated capacity of 1 ton or less.

11 (b) The county treasurer shall also deduct as a court fee the entire amount collected under [section
12 3].

13 (3) The county treasurer shall credit the ~~fee for district courts~~ amounts deducted under subsection
14 (2) to a separate suspense account and shall forward the amount in the account to the state treasurer at
15 the time the county treasurer distributes the money in the motor vehicle suspense fund.

16 (4) (a) The state treasurer shall credit amounts received under ~~this subsection (2)(a)~~ to the general
17 fund to be used for purposes of state funding of the district court expenses as provided in 3-5-901.

18 (b) The state treasurer shall credit amounts received under subsection (2)(b) to the account
19 established in [section 2] for state funding of a percentage of certain court expenses as provided in [section
20 1]."
21

22 Section 5. Section 61-3-537, MCA, is amended to read:

23 "61-3-537. ~~(Temporary)~~ Local option vehicle tax. (1) A county may impose a local vehicle tax on
24 vehicles subject to a property tax under 61-3-504(2) at a rate of up to ~~0.6%~~ 0.4% of the value determined
25 under 61-3-503, in addition to the tax imposed under 61-3-504(2).

26 (2) A local vehicle tax is payable at the same time and in the same manner as the tax imposed
27 under 61-3-504(2). The local vehicle tax is distributed as follows:

28 (a) 50% to the county, to be used first for district court needs; and

29 (b) the remaining 50% to the county and the incorporated cities and towns within the county,
30 apportioned on the basis of population. The distribution to a city or town is determined by multiplying the

1 amount of money available by the ratio of the population of the city or town to the total county population.
2 The distribution to the county is determined by multiplying the amount of money available by the ratio of
3 the population of unincorporated areas within the county to the total county population.

4 ~~(3) The governing body of a county may impose a local vehicle tax for a fiscal year by adopting~~
5 ~~a resolution before July 1 of the fiscal year, after conducting a public hearing on the proposed resolution.~~
6 ~~The resolution may provide for the distribution of the local vehicle tax. (Terminates June 30, 1995 see,~~
7 ~~1, Ch. 217, L. 1993.)~~

8 ~~61-3-537. (Effective July 1, 1995) Local option vehicle tax. (1) A county may impose a local~~
9 ~~vehicle tax on vehicles subject to a property tax under 61-3-504(2) at a rate of up to 0.5% of the value~~
10 ~~determined under 61-3-503, in addition to the tax imposed under 61-3-504(2).~~

11 ~~(2) A local vehicle tax is payable at the same time and in the same manner as the tax imposed~~
12 ~~under 61-3-504(2) and is distributed in the same manner, based on the registration address of the owner~~
13 ~~of the motor vehicle.~~

14 ~~(3) The governing body of a county may impose a local vehicle tax for a fiscal year by adopting~~
15 ~~a resolution before July 1 of the fiscal year, after conducting a public hearing on the proposed resolution."~~

16
17 Section 6. Section 3-5-602, MCA, is amended to read:

18 "3-5-602. Salary and expenses -- apportionment. (1) Each reporter is entitled to receive a base
19 annual salary of not less than \$23,000 or more than \$30,000 and no other compensation except as
20 provided in 3-5-604. The salary must be set by the judge for whom the reporter works. The salary is
21 payable in monthly installments out of the general funds of the counties comprising the district for which
22 the reporter is appointed and out of ~~an appropriation~~ appropriations made to the supreme court
23 ~~administrator pursuant to 3-5-901 and [section 1] and as provided in subsection (2) of this section.~~

24 (2) (a) The supreme court administrator shall determine the total number of civil and criminal
25 actions commenced in the preceding fiscal year in the district court or courts in the judicial district for which
26 a reporter is appointed. The Pursuant to 3-5-901, the state shall pay its a portion of the reporter's salary
27 based on the proportion of the total number of criminal actions commenced in the district court or courts
28 in the district and the amount appropriated for that purpose. Pursuant to [section 1], the state shall also
29 pay a portion of the reporter's salary based on the proportion of the total number of civil actions
30 commenced in the district court or courts in the district and the amount appropriated for that purpose.

(b) Each county shall pay its portion of the remainder of the salary based on its proportion of the total number of civil and criminal actions commenced in the district court or courts in the district. The judge or judges of the district shall, on ~~January~~ July 1 of each year or as soon thereafter as possible, apportion the amount of the salary to be paid by each county in the district on the basis prescribed in this subsection (2). The portion of the salary payable by a county is a district court expense within the meaning of 7-6-2351, 7-6-2352, and 7-6-2511.

(3) In judicial districts comprising more than one county, the reporter is allowed, in addition to the salary and fees provided for in subsection (1), actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, when on official business to a county of the reporter's judicial district other than the county in which the reporter resides. The expenses must be apportioned and are payable in the same way as the salary."

Section 7. Section 3-5-901, MCA, is amended to read:

"3-5-901. State assumption of certain district court expenses. (1) The state shall, to the extent that revenue is available under 61-3-509(4)(a), fund the following district court expenses in criminal cases only:

(a) salaries of court reporters as provided in 3-5-602;

(b) fees for transcripts of proceedings;

(c) witness fees and necessary expenses;

(d) juror fees;

(e) expenses for indigent defense;

(f) expenses of the appellate defender commission and the office of appellate defender; and

(g) expenses for psychiatric examinations.

(2) The revenue received under 61-3-509(4)(a) is statutorily appropriated, as provided in 17-7-502, to the supreme court for funding the expenses listed in subsection (1) and the costs of administering this section.

(3) If money appropriated for the expenses listed in subsection (1):

(a) exceeds the amount necessary to fully fund those expenses, the excess amount must be used for district court grants as provided in 7-6-2352; or

(b) is insufficient to fully fund those expenses, the appellate defender commission and the office

1 of appellate defender must be funded first and the county is responsible for payment of the balance.

2 (4) Money deposited in the state general fund in fiscal year 1992, as provided in 61-3-509(4)(a),
3 that is in excess of the legislative appropriation is statutorily appropriated, as provided in 17-7-502, to the
4 supreme court for district court and courts of limited jurisdiction automation purposes during the 1995
5 biennium. (Subsection (4) terminates July 1, 1995--sec. 7, Ch. 330, L. 1993.)"

6
7 **Section 8.** Section 25-1-202, MCA, is amended to read:

8 "25-1-202. **Fee for court reporter.** (1) In addition to other filing fees, a fee of ~~\$10~~ \$20 must be
9 paid to the clerk of the district court at the time of filing a civil action in the district court.

10 (2) ~~The Fifty percent of the~~ fee must be paid by the clerk into the treasury of the county where
11 the action is filed, to be applied to the payment of the salary of the reporter. The balance of the fee must
12 be remitted to the state treasurer to be deposited in the account established in [section 2].

13 (3) The prevailing party may ~~have include~~ the amount paid by him ~~taxed under this section~~ in his
14 the bill of costs as a proper disbursements disbursement."

15
16 **Section 9.** Section 7-6-2352, MCA, is amended to read:

17 "7-6-2352. **State grants to district courts -- rules.** (1) ~~The state shall make grants, to~~ To the extent
18 funds are available after expenses provided for in 3-5-901 and [section 1] ~~are funded paid, the state shall~~
19 make grants to the governing body of a county ~~for to assist~~ the district courts ~~for assistance~~, as provided
20 in this section.

21 (2) ~~The governing body of a county~~ A county's governing body may apply ~~to the supreme court~~
22 ~~administrator~~ for a grant by filing a written request with the supreme court administrator on forms provided
23 by the administrator. The request must be submitted by August 20 for the previous fiscal year unless the
24 administrator grants a time extension ~~upon~~ at the county's request of the county. In its request for a grant,
25 a county ~~must~~ shall certify that:

26 (a) all expenditures from the county district court fund have been lawfully made;

27 (b) no transfers from the county district court fund have been or will be made to any other fund;

28 and

29 (c) no expenditures have been made from the county district court fund that are not specifically
30 authorized by 7-6-2511 and 7-6-2351.

1 (3) To the extent funds are available, the state shall award a grant if the county's district court
2 expenditures for the previous fiscal year exceeded the sum of:

3 (a) the product of the maximum mill levy authorized by law for district court purposes, whether
4 or not assessed, multiplied by the previous year's taxable valuation of the county; and

5 (b) all ~~revenues~~ revenue, except district court grants, required by law to be deposited in the county
6 district court fund for the previous fiscal year.

7 (4) Eligible court expenditures for grant purposes include all costs of the county associated with
8 the operation and maintenance of the district court, from whatever fund paid, except costs for building and
9 capital items and library maintenance, replacement, and acquisition.

10 (5) The supreme court administrator shall notify each eligible county as soon as possible of the
11 state's intention to award a grant to that county and the amount of the award.

12 (6) The grant received by the county must be placed in the county's district court fund.

13 (7) If an audit conducted pursuant to 2-7-503 discloses that the recipient received a grant in excess
14 of the amount for which it was eligible, the recipient shall repay the excess to the state. The supreme court
15 administrator shall redistribute any repaid excess amounts to the other counties that received grants from
16 the appropriation from which the overpayment was made, on the same basis as the original awards. A
17 county is not eligible for a district court grant if it owes the state a refund of a prior year's overpayment.

18 (8) The supreme court administrator, in consultation with the supreme court, shall prescribe rules
19 and forms necessary to effectively administer this section. The administrator may require a county to
20 provide any information considered necessary for the administration of the program."
21

22 Section 10. Section 17-7-502, MCA, is amended to read:

23 "17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory
24 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
25 without the need for a biennial legislative appropriation or budget amendment.

26 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply
27 with both of the following provisions:

28 (a) The law containing the statutory authority must be listed in subsection (3).

29 (b) The law or portion of the law making a statutory appropriation must specifically state that a
30 statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; section 2; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403; 20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-9-306; and 90-14-107.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates July 1, 1995.)"

NEW SECTION. Section 11. Repealer. Section 4, Chapter 749, Laws of 1991, and section 1, Chapter 217, Laws of 1993, are repealed.

NEW SECTION. Section 12. Codification instruction. (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 3, chapter 5, part 9, and the provisions of Title 3, chapter 5, part 9, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 61, chapter 3, part 5, and the provisions of Title 61, chapter 3, part 5, apply to [section 3].

1 NEW SECTION. Section 13. Effective dates. (1) [Sections 5, 11, and 12 and this section] are
2 effective on passage and approval.

3 (2) [Sections 1 through 4 and 6 through 10] are effective July 1, 1995.

4 -END-
5

1 _____ BILL NO. _____

2 INTRODUCED BY _____

3 BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE STATE, RATHER THAN COUNTIES, PAY
6 THE COSTS ASSOCIATED WITH CIVIL COMMITMENT OF THE SERIOUSLY MENTALLY ILL; PROVIDING
7 THAT THOSE COSTS BE PAID FROM THE STATE GENERAL FUND; AND AMENDING SECTIONS
8 53-21-113, 53-21-120, 53-21-128, 53-21-132, AND 53-21-198, MCA."

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11

12 Section 1. Section 53-21-113, MCA, is amended to read:

13 "53-21-113. Costs of committing a patient already voluntarily admitted -- transportation costs for
14 voluntary admission. (1) The cost of involuntarily committing a patient who is voluntarily admitted to a
15 mental health facility at the time that the involuntary proceedings are commenced ~~shall~~ must be borne by
16 the ~~county of the patient's residence at the time of admission~~ state from the state general fund.

17 (2) The costs of transportation to a mental health facility under 53-21-111 and 53-21-112 ~~shall~~
18 must be provided by the ~~welfare department of the county of the patient's residence~~ state from the state
19 general fund. However, if protective proceedings under Title 72, chapter 5, have been or are initiated with
20 respect to the person, the ~~welfare department~~ state may seek reimbursement. If no one else is available
21 to transport ~~him~~ the person, the sheriff shall transport the person."

22

23 Section 2. Section 53-21-120, MCA, is amended to read:

24 "53-21-120. (Temporary) Detention to be in least restrictive environment -- preference for mental
25 health facility -- court relief -- prehearing detention of mentally ill person prohibited. (1) A person detained
26 pursuant to this part must be detained in the least restrictive environment required to protect the life and
27 physical safety of the person detained or members of the public; in this respect, prevention of significant
28 injury to property may be considered.

29 (2) Whenever possible, a person detained pursuant to this part must be detained in a mental health
30 facility and in the county of residence. If the person detained demands a jury trial and trial cannot be held

1 within 7 days, the individual may be sent to the state hospital until time of trial if arrangements can be
2 made to return ~~him~~ the individual to trial. The trial must be held within 30 days. The ~~county of residence~~
3 state shall pay from the state general fund the cost of travel and professional services associated with the
4 trial. A person may not be detained in any hospital or other medical facility that is not a mental health
5 facility unless the hospital or facility has agreed in writing to admit the person.

6 (3) A person may not be detained pursuant to this part in a jail or other correctional facility.

7 (4) A person detained prior to involuntary commitment may apply to the court for immediate relief
8 with respect to the need for detention or the adequacy of the facility being ~~utilized~~ used to detain.

9 (5) Detention may not be ordered under this part for a person concerning whom a petition has been
10 filed under 53-21-121(1)(b).

11 (6) A person may not be involuntarily committed to a mental health facility or detained for
12 evaluation and treatment because ~~he~~ the person is an epileptic or is mentally deficient, mentally retarded,
13 senile, or suffering from a mental disorder unless the condition causes ~~him~~ the person to be seriously
14 mentally ill within the meaning of this part. (Terminates July 1, 1997--sec. 1, Ch. 541, L. 1989.)

15 **53-21-120. (Effective July 1, 1997) Detention to be in least restrictive environment -- preference**
16 **for mental health facility -- court relief -- prehearing detention of mentally ill person prohibited.** (1) A person
17 detained pursuant to this part must be detained in the least restrictive environment required to protect the
18 life and physical safety of the person detained or members of the public; in this respect, prevention of
19 significant injury to property may be considered.

20 (2) Whenever possible, a person detained pursuant to this part must be detained in a mental health
21 facility and in the county of residence. If the person detained demands a jury trial and trial cannot be held
22 within 7 days, the individual may be sent to the state hospital until time of trial if arrangements can be
23 made to return ~~him~~ the person to trial. The trial must be held within 30 days. The ~~county of residence~~ state
24 shall pay from the state general fund the cost of travel and professional services associated with the trial.
25 A person may not be detained in any hospital or other medical facility that is not a mental health facility
26 unless the hospital or facility has agreed in writing to admit the person.

27 (3) A person may not be detained pursuant to this part in a jail or other correctional facility.

28 (4) A person detained prior to involuntary commitment may apply to the court for immediate relief
29 with respect to the need for detention or the adequacy of the facility being ~~utilized~~ used to detain."
30

1 Section 3. Section 53-21-128, MCA, is amended to read:

2 "53-21-128. (Temporary) Petition for extension of commitment period. (1) To extend the 3-month
3 period of detention provided for in 53-21-127(2), the procedure set forth in this subsection (1) must be
4 followed:

5 (a) Not less than 2 calendar weeks prior to the end of the 3-month period, the professional person
6 in charge of the patient at the place of detention may petition the district court in the county where the
7 patient is detained for extension of the detention period unless otherwise ordered by the original committing
8 court. The petition ~~shall~~ must be accompanied by a written report and evaluation of the patient's mental
9 and physical condition. The report ~~shall~~ must describe any tests and evaluation devices ~~which that~~ that have
10 been employed in evaluating the patient, the course of treatment ~~which that~~ that has been undertaken for the
11 patient, and the future course of treatment anticipated by the professional person.

12 (b) Upon the filing of the petition, the court shall give written notice of the filing of the petition to
13 the patient, ~~his~~ the patient's next of kin, if reasonably available, the friend of respondent appointed by the
14 court, and the patient's counsel. If any person so notified requests a hearing prior to the termination of the
15 previous detention authority, the court shall immediately set a time and place for a hearing on a date not
16 more than 10 days from the receipt of the request and notify the same people, including the professional
17 person in charge of the patient. If a hearing is not requested, the court shall enter an order of commitment
18 for a period not to exceed 6 months.

19 (c) Procedure on the petition for extension when a hearing has been requested ~~shall~~ must be the
20 same in all respects as the procedure on the petition for the original 3-month commitment, ~~except that the~~
21 patient is not entitled to trial by jury. The hearing ~~shall~~ must be held in the district court having jurisdiction
22 over the facility in which the patient is detained unless otherwise ordered by the court. Court costs and
23 witness fees, if any, ~~shall~~ must be paid by the county that paid the same costs in the initial commitment
24 proceedings state from the state general fund.

25 (d) If upon the hearing the court finds the patient not seriously mentally ill within the meaning of
26 this part, ~~he shall~~ the patient must be discharged and the petition dismissed. If the court finds that the
27 patient continues to suffer from serious mental illness, the court shall order commitment, custody in
28 relatives, outpatient therapy, or other order as set forth in 53-21-127(2), ~~except that no~~ an order may not
29 affect ~~his~~ the patient's custody for more than 6 months. In its order, the court shall describe what
30 alternatives for treatment of the patient are available, what alternatives were investigated, and why the

1 investigated alternatives were not ~~deemed~~ considered suitable. The court ~~shall~~ may not order continuation
2 of an alternative ~~which~~ that does not include a comprehensive, individualized plan of treatment for the
3 patient. A court order for the continuation of an alternative ~~shall~~ must include a specific finding that a
4 comprehensive, individualized plan of treatment exists.

5 (2) To extend the period of treatment provided for in 53-21-127(3), the procedure set forth in this
6 subsection (2) must be followed:

7 (a) Not less than 7 days prior to the end of the 30-day period of treatment ordered under
8 53-21-127(3), the professional person in charge of the respondent's care may petition the court for
9 extension of the treatment period. The petition must be accompanied by a written report and evaluation
10 of the respondent's mental and physical condition. The report ~~shall~~ must describe any tests and evaluation
11 devices ~~which~~ that have been employed in evaluating the respondent, the course of treatment ~~which~~ that
12 has been undertaken for the respondent, and the future course of treatment anticipated by the professional
13 person.

14 (b) Upon the filing of the petition, the court shall give written notice of the filing of the petition to
15 the respondent, ~~his~~ the respondent's next of kin, if reasonably available, the friend of respondent appointed
16 by the court, if any, and the respondent's counsel. If any person so notified requests a hearing prior to the
17 termination of the previous detention authority, the court shall immediately set a time and place for a
18 hearing on a date not more than 5 days from the receipt of the request and notify the same people,
19 including the professional person in charge of the respondent. If a hearing is not requested, the court shall
20 enter an order of treatment for a period not to exceed 30 days.

21 (c) Procedure on the petition for extension when a hearing has been requested ~~shall~~ must be the
22 same in all respects as the procedure on the petition under 53-21-121(1)(b) for the original treatment,
23 except that the respondent is not entitled to trial by jury. The hearing ~~shall~~ must be held in the district court
24 for the county in which the treatment is being supervised unless otherwise ordered by the court. Court
25 costs and witness fees, if any, ~~shall~~ must be paid by the county ~~that paid the same costs in the initial~~
26 proceedings state from the state general fund.

27 (d) If upon the hearing the court finds the respondent not mentally ill within the meaning of this
28 part, the petition ~~shall~~ must be dismissed. If the court finds that the respondent continues to be mentally
29 ill, the court shall order treatment for the respondent for a period not to exceed 30 days. In its order, the
30 court shall describe what alternatives for treatment of the respondent are available, what alternatives were

1 investigated, and why the investigated alternatives were not considered suitable. The court may not order
2 continuation of an alternative ~~which that~~ does not include a comprehensive, individualized plan of treatment
3 for the respondent. A court order for the continuation of an alternative ~~shall~~ must include a specific finding
4 that a comprehensive, individualized plan of treatment exists.

5 (3) Further extensions of the period of detention provided for in 53-21-127(2) may be obtained
6 under the same procedure described in subsection (1), ~~except~~ that the patient's custody may not be
7 affected for more than 1 year without a renewal of the commitment under the procedures set forth in
8 subsection (1), including a statement of the findings required by subsection (1).

9 (4) The period of treatment provided for in 53-21-127(3) may be extended only once under this
10 section. (Terminates July 1, 1997--sec. 1, Ch. 541, L. 1989.)

11 **53-21-128. (Effective July 1, 1997) Petition for extension of commitment period.** (1) (a) Not less
12 than 2 calendar weeks prior to the end of the 3-month period of detention provided for in 53-21-127(2),
13 the professional person in charge of the patient at the place of detention may petition the district court in
14 the county where the patient is detained for extension of the detention period unless otherwise ordered by
15 the original committing court. The petition ~~shall~~ must be accompanied by a written report and evaluation
16 of the patient's mental and physical condition. The report ~~shall~~ must describe any tests and evaluation
17 devices ~~which that~~ have been employed in evaluating the patient, the course of treatment ~~which that~~ has
18 been undertaken for the patient, and the future course of treatment anticipated by the professional person.

19 (b) Upon the filing of the petition, the court shall give written notice of the filing of the petition to
20 the patient, ~~his~~ the patient's next of kin, if reasonably available, the friend of respondent appointed by the
21 court, and the patient's counsel. If any person so notified requests a hearing prior to the termination of the
22 previous detention authority, the court shall immediately set a time and place for a hearing on a date not
23 more than 10 days from the receipt of the request and notify the same people, including the professional
24 person in charge of the patient. If a hearing is not requested, the court shall enter an order of commitment
25 for a period not to exceed 6 months.

26 (c) Procedure on the petition for extension when a hearing has been requested ~~shall~~ must be the
27 same in all respects as the procedure on the petition for the original 3-month commitment, ~~except that~~ the
28 patient is not entitled to trial by jury. The hearing ~~shall~~ must be held in the district court having jurisdiction
29 over the facility in which the patient is detained unless otherwise ordered by the court. Court costs and
30 witness fees, if any, ~~shall~~ must be paid by the county that paid the same costs in the initial commitment

1 ~~proceedings~~ state from the state general fund.

2 (d) If upon the hearing the court finds the patient not seriously mentally ill within the meaning of
3 this part, ~~he shall~~ the patient must be discharged and the petition dismissed. If the court finds that the
4 patient continues to suffer from serious mental illness, the court shall order commitment, custody in
5 relatives, outpatient therapy, or other order as set forth in 53-21-127(2), except that ~~no~~ an order may not
6 affect ~~his~~ the patient's custody for more than 6 months. In its order, the court shall describe what
7 alternatives for treatment of the patient are available, what alternatives were investigated, and why the
8 investigated alternatives were not ~~deemed~~ considered suitable. The court ~~shall~~ may not order continuation
9 of an alternative ~~which~~ that does not include a comprehensive, individualized plan of treatment for the
10 patient. A court order for the continuation of an alternative ~~shall~~ must include a specific finding that a
11 comprehensive, individualized plan of treatment exists.

12 (2) Further extensions may be obtained under the same procedure described in subsection (1),
13 except that the patient's custody may not be affected for more than 1 year without a renewal of the
14 commitment under the procedures set forth in subsection (1), including a statement of the findings required
15 by subsection (1)."

16
17 **Section 4.** Section 53-21-132, MCA, is amended to read:

18 "53-21-132. Cost of examination and commitment. (1) The cost of the examination, committal,
19 and taking a person who is seriously mentally ill to a mental health facility must be paid by the ~~county in~~
20 ~~which he resides at the time he is adjudged to be seriously mentally ill~~ state from the state general fund.
21 The sheriff must be allowed the actual expenses incurred in taking a person who is seriously mentally ill
22 to the facility, as provided by 7-32-2144.

23 (2) The ~~county of residence~~ state shall also pay all precommitment expenses, including
24 transportation to a mental health facility, incurred in connection with the detention, examination, and
25 precommitment custody of the respondent. The fact that a person is examined, hospitalized, or receives
26 medical, psychological, or other mental health treatment pursuant to this part does not relieve a third party
27 from a contractual obligation to pay for the cost of the examination, hospitalization, or treatment."

28
29 **Section 5.** Section 53-21-198, MCA, is amended to read:

30 "53-21-198. Extension of conditions of release -- hearing. (1) Conditions of release may be

1 extended by the district court beyond the expiration date of the order committing the patient under
2 53-21-127 or 53-21-128, but in no case for longer than 2 years beyond that date, upon a showing by clear
3 and convincing evidence that:

4 (a) continuation of the conditions of release is necessary to prevent the deterioration of the
5 patient's mental disorder; and

6 (b) the deterioration will predictably result in the necessity of further inpatient care for the person.
7 Predictability may be established by the patient's medical history.

8 (2) Not less than 2 calendar weeks prior to the end of the period of detention ordered under
9 53-21-127 or 53-21-128 or the period of extension ordered under subsection (5) of this section, the
10 professional person responsible for the patient's case may petition the court for extension of the conditions
11 of release. The petition must be accompanied by a written report and evaluation of the patient's mental
12 and physical condition. The report must describe any tests and evaluation devices ~~which~~ that have been
13 employed in evaluating the patient, the course of treatment ~~which~~ that has been undertaken for the patient,
14 and the future course of treatment anticipated by the professional person.

15 (3) Upon the filing of the petition, the court shall give written notice of the filing of the petition to
16 the patient, ~~his~~ the patient's next of kin, if reasonably available, the friend of respondent appointed by the
17 court, if any, and the patient's counsel. If any person so notified requests a hearing prior to the end of the
18 period of detention ordered under 53-21-127 or 53-21-128, the court shall immediately set a time and place
19 for a hearing on a date not more than 10 days from the receipt of the request and notify the same people,
20 including the professional person in charge of the patient. If a hearing is not requested, the court shall
21 enter an order extending the conditions of release for a period not to exceed 6 months.

22 (4) Procedure on the petition for extension is the same in all respects as the procedure for hearing
23 on a rehospitalization petition pursuant to 53-21-197, except that in an extension proceeding, the finding
24 required is that set forth in subsection (1) of this section. The hearing must be held in the district court for
25 the county in which the patient is residing. Court costs and witness fees, if any, must be paid by the
26 ~~county that paid the same costs in the initial commitment proceeding~~ state from the state general fund.

27 (5) If upon the hearing the court finds that the showing required by subsection (1) has not been
28 made, the conditions of release may not be extended. If the court finds that the required showing has been
29 made, the court may extend the conditions of release as recommended by the professional person. In its
30 order, the court shall describe what alternatives for treatment of the patient are available, what alternatives

1 were investigated, and why the investigated alternatives were not ~~deemed~~ considered suitable. The court
2 may not order continuation of an alternative that does not include a comprehensive, individualized plan of
3 treatment for the patient, as required by 53-21-162. A court order for the continuation of an alternative
4 ~~shall~~ must include a specific finding that a comprehensive, individualized plan of treatment exists.

5 (6) Further extensions may be obtained under the same procedure described in this section, except
6 that the patient's custody may not be affected for more than 1 year without a renewal of the extension
7 under the procedures set forth in this section, including a hearing and a statement of the findings required
8 by subsection (5). Extensions under this subsection may not extend the 2-year extension limitation provided
9 in subsection (1)."

10 -END-

APPENDIX B:
COURT FINANCE SPREADSHEETS

Data on counties provided by the Montana Association of Counties.

Data on courts of limited jurisdiction provided by the
Office of Court Administrator.

- 1 - FY 1992 District Court Levies and Revenue Shortfalls
- 2 - FY 1994 County District Court Fund Budgets/2180
Budgeted Nontax Revenue by Source
- 3 - FY 1994 County District Court Budgeted Expenditures
- 4 - FY 1994 Cash Carryforward Analysis
- 5 - Mill Values by County and Judicial District
- 6 - CLJ92 -- 1992 Courts of Limited Jurisdiction (October 7, 1992)

FY 1992 ANALYSIS OF DISTRICT COURT LEVIES AND REVENUE SHORTFALLS

COUNTY	FY 92 CERTIFIED				FY 1992		FY 1992		FY 1992		FY 1992		FY 1992		FY 1992	
	POP	COUNTY	TAXABLE VALUE	COUNTY CLASS	ALLOWED	MILLS LEVIED	TAX REVENUE	N/T REVENUE	BUDGETED	TOTAL	BUDGETED	EXPENSES	PROJECTED	SHORTFALL	PER CAPITA	LEVY
BEAVERHEAD	8,424		\$15,238,154	4	5.00	5.00	\$76,191	\$66,000	\$142,191	\$194,519	\$194,519	\$194,519	(\$52,328)		\$9.04	
BIG HORN	11,337		\$26,495,312	1	6.00	0.00	\$0	\$49,193	\$49,193	\$234,460	\$234,460	\$234,460	(\$185,267)		\$0.00	
BLAINE	6,728		\$13,578,733	3	5.00	2.10	\$28,515	\$28,515	\$89,165	\$163,968	\$163,968	\$163,968	(\$74,803)		\$4.24	
BROADWATER	3,318		\$12,184,702	5	4.00	3.97	\$48,373	\$26,110	\$74,483	\$71,614	\$71,614	\$71,614	\$2,869		\$14.58	
CARBON	8,080		\$17,025,528	3	5.00	4.94	\$84,106	\$72,926	\$157,032	\$177,210	\$177,210	\$177,210	(\$20,178)		\$10.41	
CARTER	1,503		\$7,554,185	6	4.00	4.00	\$30,217	\$4,300	\$34,517	\$59,328	\$59,328	\$59,328	(\$24,811)		\$20.10	
CASCADE	77,691		\$94,663,664	1	6.00	6.00	\$567,982	\$840,059	\$1,408,041	\$1,236,503	\$1,236,503	\$1,236,503	\$171,538		\$7.31	
CHOUTEAU	5,452		\$25,238,577	3	5.00	0.93	\$23,472	\$10,000	\$33,472	\$155,928	\$155,928	\$155,928	(\$122,456)		\$4.31	
CLUSTER	11,697		\$14,413,458	4	5.00	6.39	\$92,102	\$138,537	\$230,639	\$206,443	\$206,443	\$206,443	\$24,196		\$7.87	
DANIELS	2,266		\$6,337,956	6	4.00	4.00	\$25,352	\$73,523	\$98,875	\$98,874	\$98,874	\$98,874	\$1		\$11.19	
DAWSON	9,505		\$18,361,137	3	5.00	7.00	\$128,528	\$84,440	\$212,968	\$223,686	\$223,686	\$223,686	(\$10,718)		\$13.52	
DEER LODGE	10,278		\$8,784,176	5	4.00	0.00	\$0	\$97,100	\$97,100	\$209,120	\$209,120	\$209,120	(\$112,020)		\$0.00	
FALLON	3,103		\$10,330,917	1	6.00	0.00	\$0	\$5,473	\$5,473	\$97,824	\$97,824	\$97,824	(\$92,351)		\$0.00	
FERGUS	12,083		\$21,301,265	3	5.00	5.00	\$106,506	\$133,702	\$240,208	\$264,643	\$264,643	\$264,643	(\$24,435)		\$8.81	
FLATHEAD	59,218		\$95,973,683	1	6.00	6.00	\$575,842	\$333,500	\$909,342	\$1,053,065	\$1,053,065	\$1,053,065	(\$143,723)		\$9.72	
GALLATIN	50,463		\$75,356,733	1	6.00	6.00	\$452,140	\$453,916	\$906,056	\$795,398	\$795,398	\$795,398	\$110,658		\$8.96	
GARFIELD	1,589		\$5,419,445	6	4.00	4.00	\$21,678	\$4,675	\$26,353	\$36,813	\$36,813	\$36,813	(\$10,460)		\$13.64	
GLACIER	12,121		\$19,244,015	2	6.00	4.71	\$90,639	\$73,877	\$164,516	\$301,121	\$301,121	\$301,121	(\$136,605)		\$7.48	
GOLDEN VALLEY	912		\$5,066,525	6	4.00	1.29	\$6,536	\$49,229	\$55,765	\$66,170	\$66,170	\$66,170	(\$10,405)		\$7.17	
GRANITE	2,548		\$7,532,933	6	4.00	4.00	\$30,132	\$21,977	\$52,109	\$67,500	\$67,500	\$67,500	(\$15,391)		\$11.83	
HILL	17,654		\$29,900,724	2	6.00	4.92	\$147,112	\$191,660	\$338,772	\$472,262	\$472,262	\$472,262	(\$133,490)		\$8.33	
JEFFERSON	7,939		\$24,029,493	2	6.00	3.81	\$91,552	\$95,850	\$187,402	\$203,109	\$203,109	\$203,109	(\$15,707)		\$11.53	
J.BASIN	2,282		\$8,927,956	5	4.00	3.81	\$34,016	\$50,370	\$84,386	\$96,244	\$96,244	\$96,244	(\$11,858)		\$14.91	
LAKE	21,041		\$30,529,214	2	6.00	6.00	\$183,175	\$244,748	\$427,923	\$401,727	\$401,727	\$401,727	\$26,196		\$8.71	
LEWIS & CLARK	47,495		\$65,976,000	1	6.00	6.00	\$395,856	\$689,050	\$1,084,906	\$1,093,731	\$1,093,731	\$1,093,731	(\$8,825)		\$8.33	
LIBERTY	2,295		\$9,590,598	5	4.00	2.86	\$27,429	\$13,909	\$41,338	\$48,994	\$48,994	\$48,994	(\$7,656)		\$11.95	
LINCOLN	17,481		\$30,463,154	2	6.00	6.00	\$182,779	\$320,400	\$503,179	\$534,698	\$534,698	\$534,698	(\$31,519)		\$10.46	
MADISON	5,959		\$19,921,498	3	5.00	5.00	\$99,607	\$18,353	\$117,960	\$138,375	\$138,375	\$138,375	(\$20,415)		\$16.63	
MCCONE	2,276		\$7,935,540	6	4.00	6.41	\$50,867	\$9,795	\$60,662	\$65,162	\$65,162	\$65,162	(\$4,500)		\$22.35	
MEAGHER	1,819		\$8,110,923	6	4.00	4.00	\$32,444	\$9,355	\$41,799	\$46,513	\$46,513	\$46,513	(\$4,714)		\$17.84	
MUNICIPAL	3,315		\$8,106,629	6	4.00	4.00	\$32,427	\$31,146	\$63,573	\$98,156	\$98,156	\$98,156	(\$34,582)		\$9.78	

FY 1992 ANALYSIS OF DISTRICT COURT LEVIES AND REVENUE SHORTFALLS

COUNTY	FY 92 CERTIFIED				FY 1992			FY 1992			FY 1992		
	POP	COUNTY	COUNTY	CLASS	ALLOWED	MILLS	LEVIED	REVENUE	N/T REVENUE	TOTAL	BUDGETED	PROJECTED	PER CAPITA
											EXPENSES	SHORTFALL	LEVY
MISSOULA	78,687	\$118,338,000	1		6.00	7.21		\$853,217	\$1,208,934	\$2,062,151	\$1,916,285	\$145,866	\$10.84
MUSSELSHELL	4,106	\$6,778,195	4		5.00	8.02		\$54,361	\$90,860	\$145,221	\$137,340	\$7,881	\$13.24
PARK	14,562	\$23,660,393	3		5.00	5.00		\$118,302	\$71,795	\$190,097	\$202,537	(\$12,440)	\$8.12
PETROLEUM	519	\$1,812,828	7		6.00	0.00		\$0	\$1,019	\$1,019	\$15,553	(\$14,534)	\$0.00
PHILLIPS	5,163	\$19,333,040	2		6.00	2.60		\$50,266	\$41,020	\$91,286	\$159,830	(\$68,544)	\$9.74
PONDERA	6,433	\$14,854,668	3		5.00	0.00		\$0	\$35,332	\$35,332	\$150,644	(\$115,312)	\$0.00
POWDER R.	2,090	\$6,146,021	5		4.00	0.00		\$0	\$7,603	\$7,603	\$24,187	(\$16,584)	\$0.00
POWELL	6,620	\$12,345,885	5		4.00	4.00		\$49,384	\$37,617	\$87,001	\$101,218	(\$14,217)	\$7.46
PRAIRIE	1,383	\$4,296,292	6		4.00	2.92		\$12,545	\$4,400	\$16,945	\$37,535	(\$20,590)	\$9.07
RAVALLI	25,010	\$31,038,117	2		6.00	6.00		\$186,229	\$385,900	\$572,129	\$450,833	\$121,296	\$7.45
RICHLAND	10,716	\$21,949,383	3		5.00	0.00		\$0	\$45,000	\$45,000	\$160,530	(\$115,530)	\$0.00
ROOSEVELT	10,999	\$25,005,124	2		6.00	2.00		\$50,010	\$41,750	\$91,760	\$280,940	(\$189,180)	\$4.55
ROSEBUD	10,505	\$17,801,815	1		6.00	0.00		\$0	\$58,500	\$58,500	\$219,714	(\$161,214)	\$0.00
SANDERS	8,669	\$24,126,873	3		5.00	0.00		\$0	\$20,000	\$20,000	\$94,820	(\$74,820)	\$0.00
SHERIDAN	4,732	\$12,303,420	2		6.00	2.65		\$32,604	\$89,700	\$122,304	\$144,880	(\$22,576)	\$6.89
SILVERBOW	33,941	\$48,100,659	1		6.00	6.00		\$288,604	\$565,084	\$853,688	\$889,831	(\$36,143)	\$8.50
STILLWATER	6,536	\$19,461,744	3		5.00	3.40		\$66,170	\$133,964	\$200,134	\$240,496	(\$40,362)	\$10.12
SWEET GRASS	3,154	\$8,330,605	6		4.00	4.00		\$33,322	\$36,697	\$70,019	\$63,650	\$6,369	\$10.57
TETON	6,271	\$15,421,793	4		5.00	3.70		\$57,061	\$23,577	\$80,638	\$130,886	(\$50,248)	\$9.10
TOOLE	5,046	\$17,669,071	2		6.00	5.23		\$92,409	\$33,500	\$125,909	\$164,000	(\$38,091)	\$18.31
TREASURE	874	\$4,907,681	6		4.00	1.75		\$8,588	\$7,475	\$16,063	\$31,025	(\$14,962)	\$9.83
VALLEY	8,239	\$25,693,935	2		6.00	5.00		\$128,470	\$35,330	\$163,800	\$183,574	(\$19,774)	\$15.59
WHEATLAND	2,246	\$7,648,766	6		4.00	4.00		\$30,595	\$22,935	\$53,530	\$79,360	(\$25,830)	\$13.62
WIBAUX	1,191	\$4,194,585	4		5.00	0.00		\$0	\$1,322	\$1,322	\$61,103	(\$59,781)	\$0.00
YELLOWSTONE	113,419	\$190,275,494	1		6.00	6.53		\$1,242,499	\$618,414	\$1,860,913	\$1,862,569	(\$1,656)	\$10.95

TOTAL	799,013	\$1,585,087,214											
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FY 91 TOTAL	804,800	\$1,549,675,638											
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% CHANGE	-0.7%						2.2%						
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BUDGETED NON TAX REVENUES BY SOURCE

	LIGHT VEHICLE TAXES	LIGHT VEHICLE LOCAL OPTION -.5%	LICENSES AND PERMITS	INTRA - GOVERNMENTAL REVENUE	STATE REIMBURSEMENT	GRANT	CHARGES FOR SERVICES & FINES	TRANSFERS IN	MISC.	TOTAL BUDGETED N/T REVENUES
BEAVERHEAD	\$4,200	\$0	\$0	\$2,700	\$36,250	\$0	\$10,300	\$18,000	\$4,000	\$78,450
BIG HORN	\$0	\$0	\$0	\$0	\$35,000	\$0	\$8,200	\$0	\$0	\$43,200
BUANE	\$8,050	\$0	\$100	\$77,800	\$29,500	\$0	\$8,900	\$0	\$0	\$122,750
BROADWATER	\$3,185	\$12,000	\$0	\$1,805	\$20,000	\$0	\$4,510	\$0	\$420	\$41,920
CARBON	\$6,890	\$0	\$400	\$28,478	\$6,000	\$0	\$10,000	\$35,878	\$0	\$69,634
CARTER	\$1,300	\$0	\$0	\$800	\$500	\$0	\$1,000	\$0	\$0	\$3,600
CASCADE	\$48,307	\$575,515	\$4,094	\$18,590	\$210,445	\$0	\$355,405	\$0	\$0	\$1,406,406
CHOUTEAU	\$1,834	\$0	\$0	\$1,368	\$10,544	\$0	\$4,065	\$0	\$0	\$17,811
CUSTER	\$9,132	\$68,500	\$445	\$8,274	\$58,783	\$0	\$20,747	\$0	\$106	\$196,078
DANIELS	\$1,944	\$28,353	\$0	\$1,589	\$73	\$0	\$2,879	\$1,342	\$0	\$36,960
DAWSON	\$10,400	\$0	\$500	\$25,901	\$28,000	\$0	\$12,825	\$0	\$0	\$77,626
DEER LODGE	\$0	\$0	\$0	\$0	\$23,000	\$0	\$8,000	\$0	\$0	\$31,000
FALLON	\$0	\$0	\$0	\$0	\$4,350	\$0	\$3,200	\$0	\$0	\$7,550
FERGUS	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$131,418	\$131,418
FLATHEAD	\$64,300	\$0	\$0	\$25,000	\$277,425	\$0	\$77,000	\$0	\$0	\$443,725
GALLATIN	\$47,000	\$0	\$2,000	\$18,850	\$190,000	\$0	\$74,000	\$188,185	\$50	\$470,085
GARFIELD	\$1,345	\$0	\$60	\$1,940	\$5,000	\$0	\$1,100	\$0	\$0	\$3,445
GLACIER	\$5,800	\$0	\$18	\$28,148	\$37,000	\$0	\$5,500	\$0	\$500	\$78,948
GOLDEN VALLEY	\$900	\$0	\$100	\$700	\$17,722	\$0	\$1,200	\$0	\$0	\$20,000
GRANITE	\$2,000	\$0	\$780	\$28,780	\$135,000	\$0	\$19,000	\$0	\$5,000	\$110,100
HILL	\$11,010	\$0	\$0	\$5,282	\$35,000	\$0	\$8,450	\$0	\$0	\$267,560
JEFFERSON	\$8,775	\$0	\$0	\$1,512	\$54,533	\$0	\$55,487	\$0	\$0	\$68,266
J BASIN	\$2,800	\$0	\$120	\$8,417	\$65,000	\$0	\$25,000	\$7,500	\$0	\$130,258
LAKE	\$20,482	\$2,320	\$3,037	\$6,417	\$81,882	\$0	\$97,018	\$0	\$0	\$600,796
LEWIS & CLARK	\$39,000	\$323,000	\$2,000	\$66,901	\$2,000	\$0	\$1,200	\$0	\$0	\$474,481
LIBERTY	\$1,700	\$800	\$175	\$7,078	\$2,000	\$0	\$18,500	\$0	\$0	\$12,953
LINCOLN	\$24,194	\$140,000	\$1,000	\$10,000	\$280,117	\$0	\$5,790	\$0	\$3,700	\$24,784
MADISON	\$8,822	\$0	\$511	\$890	\$8,981	\$0	\$2,445	\$4,500	\$1,500	\$14,887
MCCONE	\$3,050	\$0	\$0	\$2,445	\$850	\$0	\$5,340	\$0	\$0	\$11,594
MEADHER	\$1,810	\$0	\$395	\$609	\$3,440	\$0	\$5,362	\$0	\$0	\$23,931
MINERAL	\$1,990	\$1,683	\$237	\$1,287	\$14,382	\$0	\$112,100	\$0	\$63,065	\$1,258,983
MISSOULA	\$57,000	\$588,327	\$30	\$53,841	\$390,000	\$14,550	\$5,800	\$0	\$0	\$73,530
MUSKIEBELL	\$9,400	\$30,000	\$200	\$20,730	\$10,400	\$0	\$21,600	\$0	\$352	\$63,887
PARK	\$13,800	\$0	\$0	\$3,135	\$25,000	\$0	\$0	\$0	\$0	\$0
PETROLEUM	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
PHILLIPS	\$23,850	\$0	\$0	\$23,712	\$10,000	\$0	\$8,400	\$0	\$0	\$65,782
PONDERA	\$8,045	\$17,900	\$384	\$10,568	\$23,835	\$0	\$4,372	\$0	\$10,513	\$73,715
POWDER R	\$1,785	\$35,000	\$50	\$320	\$1,500	\$0	\$2,300	\$0	\$0	\$40,835
POWELL	\$4,235	\$1,800	\$0	\$2,014	\$20,000	\$0	\$5,000	\$0	\$3,000	\$38,049
PIAIRE	\$1,000	\$0	\$0	\$1,300	\$200	\$0	\$700	\$0	\$0	\$3,200
RAVALLI	\$25,400	\$72,700	\$2,400	\$4,000	\$100,000	\$0	\$18,700	\$0	\$0	\$221,200
RICHLAND	\$0	\$0	\$0	\$0	\$35,000	\$0	\$10,000	\$0	\$0	\$45,000
ROOSEVELT	\$3,300	\$0	\$100	\$17,550	\$1,200	\$0	\$8,700	\$0	\$0	\$28,040
ROSEBUD	\$0	\$0	\$0	\$0	\$40,000	\$0	\$8,500	\$0	\$0	\$48,500
SANDERS	\$0	\$0	\$0	\$0	\$20,000	\$0	\$7,000	\$0	\$0	\$27,000
SHERIDAN	\$3,500	\$0	\$0	\$52,500	\$1,500	\$0	\$4,500	\$0	\$0	\$62,000
SILVERBOW	\$31,000	\$405,000	\$4,200	\$2,500	\$81,500	\$0	\$28,000	\$0	\$10,000	\$582,200
STILLWATER	\$7,200	\$0	\$0	\$4,500	\$8,000	\$0	\$8,100	\$0	\$0	\$23,800
SWEET GRASS	\$2,845	\$0	\$590	\$1,315	\$8,750	\$0	\$3,450	\$4,415	\$0	\$21,435
TETON	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TOOLE	\$14,000	\$0	\$0	\$121,423	\$3,000	\$0	\$8,500	\$0	\$0	\$144,823
TREASURE	\$303	\$0	\$12	\$331	\$1,000	\$0	\$787	\$0	\$831	\$3,354
VALLEY	\$8,125	\$0	\$0	\$45,385	\$13,500	\$0	\$9,800	\$0	\$300	\$75,060
WHEATLAND	\$0	\$0	\$1,080	\$1,020	\$0,000	\$0	\$0	\$0	\$0	\$14,000
WIBAUX	\$0	\$0	\$0	\$0	\$380	\$0	\$559	\$0	\$0	\$1,058
WILLOWSTONE	\$0	\$0	\$115,000	\$516,000	\$0	\$0	\$150,000	\$0	\$93,000	\$874,910
** (District court reported in general fund)										
** (Data not recorded)										
1 1/1/1	\$553,148	\$2,381,946	\$140,808	\$1,216,000	\$2,447,621	\$14,550	\$1,415,870	\$239,619	\$328,774	\$9,778,372
GR TOTAL	0.3%	27.4%	1.1%	1.1%	27.9%	0.2%	11.1%	2.7%	3.7%	

COUNTY	DISTRICT COURT BUDGETED EXPENDITURES	CIVIL			CRIMINAL			OTHER			TOTALS		
	CLERK OF COURT ADMINISTRATION	JURY & WITNESS SERVICES	JUDICIAL SERVICES	ALL OTHER CIVIL	CRIMINAL PROSECUTION SERVICES	CRIMINAL COURT REPORTING	CRIMINAL INDIGENT DEFENSE	ALL OTHER CRIMINAL	JUVENILE PROBATION	MISC. AND OTHER	BUDGETED CIVIL EXPENDITURES	BUDGETED CRIMINAL EXPENDITURES	TOTAL BUDGETED EXPENDITURES
BEAVERHEAD	\$61,024	\$8,000	\$19,842	\$32,737	\$500	\$0	\$18,000	\$18,800	\$29,035	\$0	\$121,800	\$38,400	\$160,038
BIG HORN	\$68,872	\$1,702	\$11,838	\$68,517	\$248	\$1,066	\$37,756	\$2,954	\$30,550	\$0	\$178,928	\$42,827	\$221,706
BLAINE	\$112,600	\$0	\$0	\$110,000	\$0	\$0	\$0	\$0	\$0	\$50,800	\$178,800	\$0	\$215,700
BROADWATER	\$42,365	\$1,000	\$0	\$11,520	\$150	\$13,000	\$11,000	\$11,000	\$11,000	\$0	\$54,905	\$35,150	\$101,055
CARBON	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$150,260	\$0	\$50,500	\$0	\$180,260	\$206,880
CARTER	\$43,000	\$10,000	\$0	\$19,500	\$0	\$0	\$0	\$0	\$5,000	\$0	\$72,500	\$0	\$77,500
CASCADE	\$308,040	\$35,780	\$312,780	\$45,000	\$0	\$287,600	\$0	\$36,200	\$806,827	\$33,875	\$701,580	\$304,000	\$1,046,062
CHOUTEAU	\$53,840	\$0	\$0	\$40,850	\$1,500	\$1,000	\$12,000	\$0	\$10,925	\$0	\$94,480	\$14,500	\$119,915
CUSTER	\$61,231	\$8,000	\$6,500	\$119,381	\$0	\$0	\$0	\$0	\$63,581	\$0	\$195,112	\$0	\$258,693
DANIELS	\$33,387	\$3,500	\$0	\$1,250	\$0	\$3,166	\$5,000	\$0	\$13,420	\$2,781	\$168,137	\$8,186	\$210,310
DAWSON	\$65,700	\$0	\$0	\$102,060	\$0	\$0	\$108,818	\$0	\$41,600	\$150	\$150,637	\$0	\$257,453
DEERLOOGE	\$68,164	\$3,000	\$30,000	\$49,473	\$0	\$9,206	\$12,500	\$0	\$0	\$0	\$258,324	\$0	\$325,888
FALLON	\$76,283	\$0	\$0	\$20,300	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$114,289
FERGUS	\$258,324	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$114,289
FLATHEAD	\$229,056	\$44,985	\$226,028	\$43,801	\$30,000	\$10,100	\$221,475	\$15,850	\$442,584	\$10,000	\$544,680	\$277,425	\$1,274,860
GALLATIN	\$250,055	\$70,000	\$343,997	\$169,488	\$0	\$2,325	\$0	\$0	\$154,037	\$1,000	\$833,520	\$0	\$968,557
GARFIELD	\$37,700	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$3,850	\$0	\$37,700	\$2,325	\$43,875
GLACIER	\$80,975	\$10,000	\$14,812	\$115,088	\$5,000	\$1,000	\$10,000	\$7,000	\$7,000	\$0	\$230,855	\$0	\$237,855
G VALLEY	\$10,566	\$10,000	\$1,000	\$5,900	\$0	\$0	\$0	\$2,000	\$17,458	\$0	\$17,458	\$23,000	\$41,458
GRANITE	\$41,500	\$17,000	\$2,000	\$20,500	\$8,600	\$3,000	\$135,000	\$29,400	\$0	\$0	\$72,000	\$2,000	\$74,000
HILL	\$110,541	\$0	\$0	\$126,941	\$0	\$0	\$31,000	\$185,908	\$83,398	\$0	\$256,462	\$178,900	\$515,780
JEFFERSON	\$44,648	\$4,800	\$2,000	\$10,200	\$18,000	\$18,000	\$6,211	\$14,000	\$11,232	\$0	\$14,248	\$36,211	\$51,606
J BABIN	\$97,775	\$7,000	\$23,780	\$47,400	\$0	\$14,500	\$68,000	\$25,500	\$115,651	\$3,000	\$165,855	\$128,808	\$412,808
LAKE	\$699,961	\$18,281	\$246,187	\$15,268	\$4,650	\$0	\$73,600	\$17,250	\$8,619	\$18,837	\$1,234,388	\$66,500	\$1,367,355
LEWIS & CLARK	\$30,526	\$156,782	\$0	\$15,268	\$0	\$0	\$152,872	\$141,808	\$159,782	\$0	\$45,795	\$0	\$46,118
LIBERTY	\$13,477	\$0	\$0	\$13,477	\$0	\$0	\$0	\$0	\$32,211	\$0	\$117,646	\$284,078	\$604,122
MINERAL	\$73,065	\$0	\$0	\$7,100	\$0	\$8,050	\$16,000	\$4,000	\$9,258	\$0	\$43,215	\$28,050	\$60,521
MADISON	\$43,215	\$0	\$0	\$23,200	\$0	\$0	\$15,000	\$23,000	\$11,368	\$0	\$31,147	\$7,780	\$50,275
MEADHER	\$32,077	\$0	\$500	\$23,200	\$0	\$5,000	\$553,197	\$20,000	\$8,809	\$0	\$55,777	\$43,000	\$107,386
MISSOULA	\$786,900	\$0	\$216,181	\$178,547	\$0	\$0	\$0	\$119,310	\$531,650	\$39,582	\$1,181,808	\$173,187	\$2,366,037
MUSKELSHIELL	\$0	\$15,000	\$0	\$67,355	\$0	\$0	\$0	\$0	\$24,280	\$0	\$174,320	\$119,310	\$443,590
PARK	\$61,066	\$16,600	\$0	\$1,200	\$0	\$0	\$0	\$2,000	\$48,505	\$0	\$17,600	\$2,400	\$22,525
PETROLEUM	\$105,733	\$0	\$29,200	\$0	\$0	\$0	\$0	\$0	\$43,089	\$0	\$134,833	\$0	\$178,032
PHILLIPS	\$46,865	\$0	\$42,205	\$57,887	\$0	\$0	\$0	\$0	\$25,728	\$0	\$184,537	\$0	\$190,263
PONDERA	\$64,120	\$0	\$0	\$50	\$0	\$5,850	\$7,500	\$10,000	\$48,170	\$0	\$48,170	\$23,350	\$71,520
POWDER R.	\$72,785	\$0	\$0	\$47,600	\$0	\$0	\$0	\$0	\$0	\$0	\$128,780	\$0	\$128,780
POWELL	\$27,720	\$8,215	\$0	\$0	\$0	\$3,048	\$0	\$0	\$3,975	\$0	\$27,720	\$3,048	\$34,743
PRAIRIE	\$521,512	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$521,512	\$0	\$521,512
RAVALLI	\$169,877	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$169,877	\$0	\$169,877	\$0	\$339,754
RICHLAND	\$80,450	\$0	\$0	\$152,173	\$0	\$0	\$0	\$0	\$30,200	\$2,300	\$232,623	\$0	\$265,123
ROOSEVELT	\$78,685	\$10,000	\$2,200	\$38,250	\$0	\$5,000	\$50,000	\$23,000	\$62,344	\$0	\$127,135	\$78,000	\$267,479
ROSEBUD	\$32,306	\$1,735	\$7,105	\$29,887	\$1,494	\$2,515	\$21,568	\$2,087	\$0	\$0	\$71,133	\$27,644	\$98,777
SANDERS	\$63,775	\$4,250	\$0	\$31,000	\$1,000	\$10,000	\$10,000	\$14,750	\$21,300	\$1,530	\$99,025	\$25,750	\$147,905
SHERIDAN	\$273,316	\$0	\$254,114	\$67,541	\$0	\$0	\$107,400	\$0	\$307,710	\$5,000	\$564,971	\$107,400	\$1,015,081
SILVERBOW	\$44,358	\$5,000	\$0	\$18,837	\$8,000	\$0	\$0	\$0	\$30,808	\$0	\$67,965	\$8,000	\$108,903
STILLWATER	\$36,780	\$3,000	\$0	\$2,000	\$0	\$6,850	\$6,750	\$0	\$8,900	\$0	\$41,780	\$16,400	\$67,090
SWEET GRASS	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TETON	\$123,700	\$4,500	\$0	\$47,600	\$7,000	\$0	\$0	\$5,000	\$7,000	\$54,450	\$175,800	\$12,000	\$249,250
TOOLE	\$10,414	\$5,000	\$0	\$13,233	\$0	\$0	\$0	\$0	\$3,227	\$0	\$28,647	\$0	\$31,874
TREASURE	\$246,447	\$0	\$0	\$1,500	\$0	\$0	\$12,000	\$0	\$3,500	\$0	\$248,447	\$0	\$248,436
VALLEY	\$70,952	\$0	\$0	\$15,571	\$0	\$0	\$0	\$0	\$0	\$0	\$12,000	\$12,000	\$24,000
WHEATLAND	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
WIBAUX	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
YELLOWSTONE	\$2,327,211	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,327,211	\$0	\$2,327,211
TOTAL	\$9,612,953	\$344,418	\$1,123,353	\$1,917,430	\$1,012	\$377,878	\$1,729,406	\$696,563	\$3,359,655	\$345,475	\$12,898,154	\$3,061,909	\$19,665,193
% OF TOTAL	44.6%	1.6%	9.3%	9.9%	0.1%	1.9%	8.6%	4.1%	17.1%	1.8%	65.6%	15.8%	100.0%

FY '94 CASH CARRY FORWARD ANALYSIS

COUNTY	TOTAL BUDGETED EXPENDITURES	BUDGETED CASH RESERVE	TOTAL REQUIREMENTS	FY '94 BUDGETED TRANSFERS IN	NON-TAX REVENUES	TOTAL PROPERTY TAX REVENUE	CASH CARRY FORWARD	TOTAL RESOURCES	STATUTORY MAXIMUM LEVY AMOUNT	PROPERTY TAX IN EXCESS OF STATUTORY AUTH.	MILL VALUE	D. COURT MILLS
BEAVERHEAD	\$186,008	\$0	\$186,008	\$18,000	\$78,450	\$84,121	\$28,487	\$186,038	\$84,120	--	\$18,824	5.00
BIO HORN	\$252,108		\$252,108		\$122,700	\$48,289	\$83,081	\$43,200	\$183,344	--	\$27,954	
BLAINE	\$252,100		\$252,100	\$0	\$122,700	\$48,289	\$83,081	\$43,200	\$183,344	--	\$13,864	3.33
BROWN	\$170,000	\$18,400	\$188,400	\$0	\$88,400	\$34,658	\$53,743	\$130,361	\$44,008	--	\$11,002	3.15
CARBON	\$206,860	\$68,960	\$275,820	\$35,078	\$68,834	\$88,512	\$98,494	\$275,840	\$94,210	--	\$18,842	4.70
CARTER	\$77,500	\$12,822	\$90,322	\$0	\$3,900	\$28,244	\$56,278	\$90,122	\$28,244	--	\$7,061	4.00
CHOCOMA	\$1,946,082	\$628,578	\$1,317,504	\$0	\$1,408,488	\$628,688	\$121,742	\$1,530,430	\$628,688	--	\$104,783	6.00
CHOUTEAU	\$118,915	\$23,983	\$142,898	\$0	\$17,811	\$113,888	\$83,782	\$113,888	\$123,630	--	\$24,728	1.71
CUSTER	\$258,960	\$355	\$259,315	\$0	\$198,078	\$42,325	\$13,785	\$258,248	\$78,985	--	\$15,363	5.00
DANIEL	\$62,464	\$355	\$62,819	\$1,342	\$36,980	\$76,987	\$888	\$77,828	\$24,638	--	\$9,159	4.00
DAWSON	\$210,310	\$32,118	\$242,428	\$0	\$77,828	\$107,120	\$57,883	\$242,428	\$98,950	--	\$17,360	6.16
DEERLODGE	\$237,433		\$237,433		\$31,000			\$31,000	\$36,092	--	\$9,523	
FALLON	\$114,288		\$114,288		\$7,500			\$7,500	\$81,704	--	\$10,264	
FERUS	\$258,288	\$28,874	\$287,162	\$0	\$131,418	\$111,815	\$45,085	\$288,288	\$111,815	--	\$22,363	5.00
FLATHEAD	\$33,887	\$33,887	\$67,774	\$0	\$443,725	\$712,448	\$132,382	\$1,308,526	\$712,448	--	\$118,741	6.00
GALLATIN	\$986,357	\$163,613	\$1,149,970	\$188,185	\$470,005	\$545,023	\$136,282	\$1,154,370	\$1,259,820	--	\$208,870	6.00
GARFIELD	\$63,675	\$5,121	\$68,796	\$0	\$9,445	\$24,602	\$14,748	\$29,358	\$21,868	--	\$8,487	4.50
GLACIER	\$237,835	\$56,778	\$294,613	\$0	\$76,948	\$23,288	\$19,420	\$297,638	\$116,982	--	\$19,487	1.19
GOLDEN VALLEY	\$41,456	\$13,618	\$55,074	\$0	\$20,000	\$15,840	\$18,631	\$35,274	\$32,800	--	\$5,089	3.07
GRANITE	\$74,000	\$21,735	\$95,735	\$0	\$10,100	\$32,800	\$32,835	\$95,735	\$32,800	--	\$6,200	4.00
HILL	\$518,780	\$171,421	\$690,201	\$0	\$287,500	\$144,809	\$274,842	\$687,201	\$184,002	--	\$30,867	4.72
JEFFERSON	\$216,008	\$54,228	\$270,236	\$0	\$55,487	\$31,888	\$183,759	\$271,132	\$121,300	--	\$24,278	2.14
J.B. BAIN	\$111,061	\$0	\$111,061	\$7,500	\$88,285	\$38,650	\$2,786	\$111,061	\$35,188	--	\$8,799	4.50
LAKE	\$412,608	\$6,900	\$419,508	\$0	\$130,258	\$240,870	\$48,280	\$419,408	\$240,870	--	\$40,145	6.00
LEWIS & CLARK	\$1,367,355	\$271,185	\$1,638,540	\$0	\$908,788	\$441,128	\$674,565	\$1,825,520	\$444,128	--	\$74,021	6.00
LIBERTY	\$48,118	\$0	\$48,118	\$0	\$12,953	\$30,298	\$4,898	\$46,118	\$37,272	--	\$9,318	3.25
LINCOLN	\$941,222	\$17	\$941,239	\$0	\$474,481	\$168,441	\$16,221	\$659,143	\$108,312	--	\$22,824	6.00
MACCONE	\$149,837	\$16,296	\$166,133	\$4,500	\$34,784	\$32,040	\$73,070	\$149,874	\$114,120	--	\$22,824	2.28
MCCONE	\$60,521	\$16,296	\$76,817	\$0	\$14,887	\$37,598	\$43,354	\$95,830	\$31,839	--	\$7,859	4.72
MEADOW	\$50,275	\$6,000	\$56,275	\$0	\$11,584	\$34,150	\$10,581	\$56,275	\$34,148	--	\$8,537	4.00
METCALF	\$107,368	\$26,237	\$133,605	\$0	\$23,831	\$34,882	\$22,328	\$56,206	\$34,888	--	\$6,722	4.00
MISSOULA	\$2,366,037	\$124,878	\$2,490,915	\$0	\$1,258,983	\$923,228	\$308,704	\$2,490,915	\$428,354	\$498,874	\$71,059	6.93
MUSSELHELL	\$143,590	\$34,540	\$178,130	\$0	\$73,530	\$73,100	\$31,500	\$178,130	\$25,872	--	\$6,458	11.30
PARK	\$225,725	\$25,488	\$251,213	\$0	\$83,887	\$126,200	\$58,627	\$250,714	\$128,200	--	\$25,940	5.00
PETROLEUM	\$18,800	\$0	\$18,800	\$0	\$0	\$45,882	\$90,118	\$181,573	\$118,188	--	\$18,896	2.30
PHILLIPS	\$178,032	\$13,541	\$191,573	\$0	\$65,782	\$73,975	\$90,573	\$268,280	\$14,795	--	\$14,795	5.00
PONDERA	\$190,283	\$38,000	\$228,283	\$0	\$73,715	\$73,975	\$90,573	\$268,280	\$14,795	--	\$14,795	5.00
POWELL	\$71,320	\$17,800	\$89,120	\$0	\$40,835	\$2,873	\$45,712	\$88,320	\$24,084	--	\$8,171	0.43
PRAIRIE	\$34,743	\$10,423	\$45,166	\$0	\$36,049	\$50,848	\$81,102	\$147,959	\$50,848	--	\$12,712	4.00
RAVALU	\$321,512	\$187,000	\$508,512	\$0	\$221,200	\$220,381	\$248,851	\$688,512	\$220,380	--	\$4,344	4.54
RICHARD	\$189,877	\$0	\$189,877	\$0	\$45,000	\$45,000	\$248,851	\$45,000	\$131,052	--	\$21,842	6.00
ROOSEVELT	\$265,123	\$88,374	\$353,497	\$0	\$28,940	\$78,557	\$248,000	\$353,497	\$154,182	--	\$25,897	2.98
ROGERS	\$287,479	\$0	\$287,479	\$0	\$46,600	\$27,000	\$0	\$46,600	\$1,082,888	--	\$180,478	
SANDERS	\$98,777	\$0	\$98,777	\$0	\$27,000	\$27,000	\$0	\$27,000	\$130,170	--	\$28,034	
SHERIDAN	\$147,805	\$38,901	\$186,706	\$0	\$62,000	\$3,945	\$118,581	\$184,508	\$98,552	--	\$11,592	0.34
SILVERBOW	\$1,015,081	\$98,500	\$1,113,581	\$0	\$582,200	\$314,703	\$204,878	\$1,081,581	\$314,658	--	\$32,478	6.00
SILLWATER	\$106,903	\$27,064	\$133,967	\$0	\$23,800	\$43,115	\$87,042	\$133,857	\$102,850	--	\$20,530	2.10
SWEET GRASS	\$87,060	\$13,613	\$100,673	\$4,415	\$21,435	\$32,390	\$28,869	\$80,693	\$32,392	--	\$8,096	4.00
TEBOW	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$74,410	--	\$14,882	0.00
TOOLE	\$249,250	\$68,000	\$317,250	\$0	\$144,923	\$40,832	\$131,405	\$317,250	\$107,670	--	\$17,945	2.28
TREASURE	\$31,874	\$10,000	\$41,874	\$0	\$3,354	\$15,124	\$23,368	\$41,874	\$18,720	--	\$4,800	3.23
VALLEY	\$248,438	\$63,798	\$312,236	\$0	\$75,090	\$138,330	\$87,805	\$312,236	\$158,234	--	\$28,539	5.25
WHEATLAND	\$42,500	\$0	\$42,500	\$0	\$14,000	\$55,019	\$13,481	\$82,500	\$31,186	--	\$7,787	4.00
WIBAUX	\$96,523	\$0	\$96,523	\$0	\$1,058	\$0	\$0	\$1,058	\$0	--	\$0	0.00
YELLOWSTONE	\$2,327,211	\$484,700	\$2,811,911	\$0	\$874,910	\$1,257,500	\$878,481	\$2,811,901	\$1,259,828	--	\$208,871	6.00
TOTAL	\$18,665,183	\$2,299,575	\$20,964,758	\$239,818	\$9,776,372	\$7,418,178	\$4,700,241	\$20,964,781	\$10,028,103	\$893,485	\$1,764,488	

MILL VALUES BY COUNTY AND JUDICIAL DISTRICT

DISTRICT	COUNTY	POP	FY 93-94 COUNTY TAX VALUE	FY 93-94 VALUE OF ONE MILL	ALLWD LEVY	FY 1992 MILLS LEVIED	REVENUE IF MAX MILLS ARE LEVIED	REVENUE IF FY 92 MILLS ARE LEVIED
1 ST	LEWIS&CLARK	47,495	\$76,092,840	\$76,093	6.00	6.00	\$456,557	\$456,557
	BROADWATER	3,318	\$11,002,036	\$11,002	4.00	3.97	\$44,008	\$43,678
2 ND	SILVER BOW	33,941	\$55,019,600	\$55,020	6.00	6.00	\$330,118	\$330,118
3 RD	GRANITE	2,548	\$8,278,493	\$8,278	4.00	4.00	\$33,114	\$33,114
	DEER LODGE	10,278	\$9,523,950	\$9,524	4.00	0.00	\$38,096	\$0
	POWELL	6,620	\$12,171,393	\$12,171	4.00	4.00	\$48,686	\$48,686
4 TH	MINERAL	3,315	\$8,722,974	\$8,723	4.00	4.00	\$34,892	\$34,892
	MISSOULA	78,687	\$136,040,464	\$136,040	6.00	7.21	\$816,243	\$980,852
5 TH	BEAVERHEAD	8,424	\$16,824,259	\$16,824	5.00	5.00	\$84,121	\$84,121
	JEFFERSON	7,939	\$24,570,652	\$24,571	6.00	3.81	\$147,424	\$93,614
	MADISON	5,989	\$22,824,457	\$22,824	5.00	5.00	\$114,122	\$114,122
6 TH	SWEET GRASS	3,154	\$8,092,898	\$8,093	4.00	4.00	\$32,372	\$32,372
	PARK	14,562	\$25,640,034	\$25,640	5.00	5.00	\$128,200	\$128,200
7 TH	DAWSON	9,505	\$17,389,666	\$17,390	5.00	7.00	\$86,948	\$121,728
	RICHLAND	10,716	\$21,841,600	\$21,842	5.00	0.00	\$109,208	\$0
	WIBAUX	1,191	\$4,124,135	\$4,124	5.00	0.00	\$20,621	\$0
	PRAIRIE	1,383	\$4,343,655	\$4,344	4.00	2.92	\$17,375	\$12,683
	MCCONE	2,276	\$7,991,637	\$7,992	4.00	6.41	\$31,967	\$51,226
8 TH	CASCADE	77,691	\$104,782,782	\$104,783	6.00	6.00	\$628,697	\$628,697
9 TH	PONDERA	6,433	\$14,795,008	\$14,795	5.00	0.00	\$73,975	\$0
	GLACIER	12,121	\$19,537,875	\$19,538	6.00	4.71	\$117,227	\$92,023
	TETON	6,271	\$14,882,549	\$14,883	5.00	3.70	\$74,413	\$55,065
	TOOLE	5,046	\$17,944,539	\$17,945	6.00	5.23	\$107,667	\$93,850
10 TH	J. BASIN	2,282	\$8,799,568	\$8,800	4.00	3.81	\$35,198	\$33,526
	FERGUS	12,083	\$22,363,816	\$22,364	5.00	5.00	\$111,819	\$111,819
	PETROLEUM	519	\$2,049,260	\$2,049	6.00	0.00	\$12,296	\$0
11 TH	FLATHEAD	59,218	\$124,331,036	\$124,331	6.00	6.00	\$745,986	\$745,986
12 TH	HILL	17,654	\$30,731,188	\$30,731	6.00	4.92	\$184,387	\$151,197
	CHOUTEAU	5,452	\$24,726,163	\$24,726	5.00	0.93	\$123,631	\$22,995
	LIBERTY	2,295	\$9,257,634	\$9,258	4.00	2.86	\$37,031	\$26,477
13 TH	BIG HORN	11,337	\$27,564,305	\$27,564	6.00	0.00	\$165,386	\$0
	CARBON	8,080	\$18,842,455	\$18,842	5.00	4.94	\$94,212	\$93,082

MILL VALUES BY COUNTY AND JUDICIAL DISTRICT

DISTRICT	COUNTY	POP	FY 93-94 COUNTY TAX VALUE	FY 93-94 VALUE OF ONE MILL	ALLW'D LEVY	FY 1992 MILLS LEVIED	REVENUE IF MAX MILLS ARE LEVIED	REVENUE IF FY 92 MILLS ARE LEVIED
14 TH	STILLWATER	6,536	\$20,530,912	\$20,531	5.00	3.40	\$102,655	\$69,805
	YELLOWSTONE	113,419	\$216,301,637	\$216,302	6.00	6.53	\$1,297,810	\$1,412,450
	WHEATLAND	2,246	\$7,797,839	\$7,798	4.00	4.00	\$31,191	\$31,191
	MEAGHER	1,819	\$8,539,186	\$8,539	4.00	4.00	\$34,157	\$34,157
	GOLDEN V.	912	\$5,089,308	\$5,089	4.00	1.29	\$20,357	\$6,565
15 TH	MUSSELSHELL	4,106	\$6,876,934	\$6,877	5.00	8.02	\$34,385	\$55,153
	ROOSEVELT	10,999	\$25,696,726	\$25,697	6.00	2.00	\$154,180	\$51,393
	DANIELS	2,266	\$6,159,014	\$6,159	4.00	4.00	\$24,636	\$24,636
	SHERIDAN	4,732	\$11,592,301	\$11,592	6.00	2.65	\$69,554	\$30,720
	ROSEBUD	10,505	\$180,478,702	\$180,479	6.00	0.00	\$1,082,872	\$0
16 TH	TREASURE	874	\$4,679,507	\$4,680	4.00	1.75	\$18,718	\$8,189
	CUSTER	11,697	\$15,393,437	\$15,393	5.00	6.39	\$76,967	\$98,364
	FALLON	3,103	\$10,284,372	\$10,284	6.00	0.00	\$61,706	\$0
	GARFIELD	1,589	\$5,467,114	\$5,467	4.00	4.00	\$21,868	\$21,868
	POWDER R.	2,090	\$6,171,957	\$6,172	4.00	0.00	\$24,688	\$0
17 TH	CARTER	1,503	\$7,061,143	\$7,061	4.00	4.00	\$28,245	\$28,245
	VALLEY	8,239	\$26,539,206	\$26,539	6.00	5.00	\$159,235	\$132,696
	PHILLIPS	5,163	\$19,865,693	\$19,866	6.00	2.60	\$119,194	\$51,651
	BLAINE	6,728	\$13,923,422	\$13,923	5.00	2.10	\$69,617	\$29,239
	GALLATIN	50,463	\$90,899,873	\$90,900	6.00	6.00	\$545,399	\$545,399
19 TH	LINCOLN	17,481	\$28,051,639	\$28,052	6.00	6.00	\$168,310	\$168,310
20 TH	SANDERS	8,669	\$26,034,477	\$26,034	5.00	0.00	\$130,172	\$0
	LAKE	21,041	\$40,145,274	\$40,145	6.00	6.00	\$240,872	\$240,872
21 ST	RAVALLI	25,010	\$36,729,910	\$36,730	6.00	6.00	\$220,379	\$220,379
TOTALS				\$1,731,413			\$9,823,163	\$7,881,964

Source: Montana Association of Counties

OCTOBER 7, 1992

	1992 PRELIMINARY HEARING	1992 PER SE	1992 MINOR IN POSSESSION	1992 UNLAWFUL TRAN/MINOR	1992 FISH & GAME	1992 HIWAY PATROL	1992 OTHER	1992 ALCOHOL REL CRIM CASES	1992 DRUG REL CRIM CASES	1992 DOM ABUSE CRIM CASES	1992 TROS CIVIL	1992		1992 REV COLLECT COUNTY
												1992 TOTAL BUDGET	1992 ANNUAL SALARY	
1992 JUDGES														
JOHN H DUEHR	0	3	11	2	0	0	0	19	4	3	6	6,945	4,418	
LELA HOLDER	0	0	35	0	29	661	79	58	45	0	2	50,846	28,353	39,967
JOAN S. PULSE	0	1	23	0	0	0	150	202	0	0	0	8501.91	3615.2	
FRANCIS W PECK	9	9	70	2	0	0	0	158	6	8	2	11,650	9,800	
MARLENE A. HERREJO	0	7	164	3	107	2,219	3,730	0	6	34	23	87,447	23,832	243,220
BARBARA BROOK	0	0	0	6	74	686	0	59	9	10	10	45,660	21,759	98,648
MADISON	0	1	36	6	0	0	0	10	0	0	0	4000	2700	
JOE WILKENS	0	0	6	0	0	0	0	0	0	0	0	15,000	6,500	12,165
DWIGHT O. BURTON	2	0	12	1	21	679	33	17	0	0	6	23,008	9,792	25,668
MEAGHER	0	2	6	3	68	82	7	12	2	4	6	3000	1200	
DERYL MAYN	0	0	0	0	0	0	0	2	0	0	0	32,562	19,102	124,094
JAMES C. MURPHY	0	1	19	2	142	2,499	577	62	0	7	6	6,280	2,520	
DEBORAH J. DAVIS	0	1	8	3	0	0	0	16	2	3	1	238,764	37,681	
JUDITH M. JACKMAN	0	1	8	3	0	0	0	0	0	0	0	245,005	33,450	320,045
ROBERT I. SPENCE	0	0	0	0	0	0	0	0	0	0	0	22,670	10,495	30,352
DONALD J. LOUDEN	0	2	60	4	72	1,722	0	19,418	432	103	145	29,713	18,158	
MISSOULA	0	0	0	0	0	0	0	0	0	0	0	59,221	22,357	311,197
D K CLARK M D MORRIS	6	4	10	5	39	710	0	0	2	6	7	7,800	3,900	3,234
ROBERTE MIHALOVICH	0	26	33	6	0	0	0	0	0	0	1	49,000	21,500	55,000
NEIL M. TRAVIS	0	76	16	0	282	2,965	88	34	18	9	9	71,685	12,000	79,208
PARK	0	0	0	0	0	0	0	0	0	0	0	31,432	19,243	53,164
DEANNA EGELAND	0	0	2	2	7	11	0	6	1	0	0	54,526	27,066	119,841
LOIS POULTON	25	125	36	12	60	1,800	0	55%	10%	18	18	6,132	9,855	9,855
PHILLIPS	0	0	0	0	66	1,907	0	0	0	0	0	4,000	4,000	
PONDERA	0	4	30	0	28	744	0	126	6	7	4	79,208	79,208	
POWELL	1	2	41	6	89	3,273	0	60%	30%	12	12	12,000	12,000	
TERRY J. MAGILUS	4	3	5	1	4	192	0	0	0	0	1	0	0	0
FRAN K. FLECKENSTEIN	0	1	9	1	0	0	0	19	1	7	0	1,350	0	
ROGER BARDLEY	0	0	0	0	0	0	0	0	0	0	0	66,000	23,000	88,153
RAVALLI	0	9	73	9	66	1,907	0	55%	10%	18	18	7,725	2,772	
NANCY L. SABO	0	5	44	1	65	2,050	0	55%	10%	18	18	0	0	
MARTHA A. BETHEL	0	1	0	0	0	0	0	0	0	0	0	0	0	
EDWARD G. SPERRY	0	0	0	0	0	0	0	0	0	0	0	0	0	
MARTHA A. BETHEL	0	1	0	0	0	0	0	0	0	0	0	0	0	
CHARLES E. WISENEN	0	5	77	5	48	1,756	1	90%	4	5	7	23,000	23,000	
GREGORY P. MOHR	0	3	10	0	0	0	0	0	0	1	0	7,725	2,772	
NANCY L. CHRISTMANN	0	0	0	0	0	0	0	0	0	0	0	0	0	
NICK NIKOLOFF	0	0	6	7	12	1,915	132	24	0	0	3	55,040	10,000	44,158
BRUCE WALDHUSEN	1	4	0	11	8	817	31	150	17	9	11	82,073	27,420	25,246
RON JOHNSON	1	0	40	4	47	630	9	125	7	10	3	48,916	28,051	85,856
ANN WAGNER	0	4	6	2	20	1,312	109	44	2	0	4	40,685	29,050	50,821
DAVID J. POLLEY	0	0	16	2	0	0	0	34	0	7	0	10,100	6,800	
VI KEELER	0	0	42	7	40	1,610	0	75%	20%	25	26	36,320	25,200	121,430
BOB C. BEITZ	0	0	4	5	0	0	14	31	1	1	0	7,960	3,780	
ROBERT J. BUNCH	0	2	7	2	7	266	6	19	1	2	1	26,750	8,149	9,898
ALBERT NICKOLA	0	2	8	2	6	95	5	24	5	1	1	26,750	8,149	19,933.1
DENNIS PAULBECK	6	2	12	1	0	0	0	11	0	2	1	10,500	7,200	
SHERIDAN	0	19	5	3	27	1,089	225	84	84	5	22	129,629	26,735	88,356
THOMAS ROBERTSON	0	20	10	3	36	2,500	198	80%	60	3	15	129,829	26,735	111,357
M A BARTHOLOMEW	0	101	96	22	0	0	0	35	23	07	0	66,847	27,500	
MEL MOONEY	0	4	74	11	87	1,791	0	9	8	7	4	56,000	12,866	95,000
JCE RUSSELL	0	1	12	4	15	896	173	0	0	1	1	56,000	10,266	40,600
MARILYN KOBER	0	14	43	2	51	2,236	8	92	2	2	2	27,080	22,430	68,720
ROBERT NOE	0	4	25	2	17	405	220	18	4	4	4	38,061	17,878	46,512
RICHARD MILES	0	0	6	2	0	0	0	8	1	0	0	4,470	2,860	
JOHN L. HOWARD	0	1	14	4	0	0	0	10	1	2	0	1,850	4,200	
JOHN L. HOWARD	0	0	0	0	0	0	0	0	0	0	0	500	50	
JOHN L. HOWARD	0	0	0	0	0	0	0	0	0	0	0	54,311	21,312	171,475
JAMES C. FARRAR	55	2	49	9	27	2,035	0	115	69	12	4	16,009	11,775	27,960
WILLIS F. ETTER	0	3	16	2	58	3,050	32	10	3	1	0	36,413	21,527	40,781
THOMAS L GREWE	0	7	162	14	0	0	0	87	3	7	0	16,590	10,725	
GERALD J. SMITH	0	0	0	0	0	0	0	0	0	0	0	3,000	1,200	875
ASILE W. GORDON	0	0	0	0	0	0	0	0	0	0	0	2200	600	
KATHLEEN E. HANDLEY	0	0	10	0	0	0	0	10	0	0	0	14,328	5,400	32,542
LEVI JENKINS	0	1	6	10	154	696	0	185	6	14	2	3,000	3,000	
KATHY FROST	0	0	18	2	0	0	0	30	2	4	0	23,000	9,775	26,795
BILL FRANKS	0	0	2	0	7	225	233	0	0	0	0	0	0	

OCTOBER 7, 1992

1992 JUDGES	COUNTY	PRELIMINARY HEARING	1992 PERSE	1992 MINOR IN POSSESSION	1992 UNLAWFUL TRAN/MINOR	1992 FISH & GAME	1992 HIWAY PATROL	1992 OTHER	1992 ALCOHOL REL CRIM CASES	1992 DRUG REL CRIM CASES	1992 DOM ABUSE CRIM CASES	1992 THOS CIVIL	1992 TOTAL BUDGET	1992 ANNUAL SALARY	1992 REV COLLECT COURTY
VIRGINIA WETZEL	WIBAU	0	0	26	3	0	0	0	5	0	1	0	3,430	2,280	0
HERMAN	YELLOWSTONE	0	6	60	5	0	0	0	19	12	14	3	54,000	14,588	0
PEDRO HERNANDEZ	YELLOWSTONE	0	0	63	0	166	4,345	1,009	0	0	0	67	280,844	36,470	352,654
JANETE ESCHLER	YELLOWSTONE	0	0	41	0	122	4,606	994	0	0	0	64	SEE ABOVE	36,470	446,453
GAYLE STEWART	YELLOWSTONE	0	612	282	3	0	0	0	30%	20%	277	0	830,600	45,240	0
TOTALS.		430	1,829	5,687	620	4,303	141,863	20,666	26,234	1,290	1,965	1,137	6,183,867	1,078,408	6,505,007
													(AVG SAL	\$14,595	\$11,647,976.15

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